

## CITY OF ENGLEWOOD

### **PUBLIC NOTICE OF "FAIRNESS AND PRELIMINARY COMPLIANCE HEARING" TO APPROVE SETTLEMENT OF MOUNT LAUREL LITIGATION**

**PLEASE TAKE NOTICE** that a "Fairness and Preliminary Compliance Hearing" will be held on January 10, 2023 at 1:30 pm before the Honorable Christine A. Farrington, J.S.C., ret'd t/a/recall, Superior Court of New Jersey, Law Division, at the Bergen County Justice Center, 10 Main Street, 3<sup>rd</sup> Floor, Hackensack, New Jersey 07601 to consider the proposed Settlement Agreement between the City of Englewood ("City" or "Englewood") and Fair Share Housing Center ("FSHC") in the Mount Laurel action entitled In the Matter of the Application of the City of Englewood, Docket No. BER-L-4069-19. This Hearing may take place in person or through virtual technology adopted for use by the Court. The City will provide additional notice regarding the manner in which the Hearing will proceed on its website ([www.cityofenglewood.org](http://www.cityofenglewood.org)) on or before January 4, 2023. Anyone who desires to receive instructions regarding how to access and/or participate in the Hearing through virtual technology should provide an e-mail address or mailing address to Edward J. Buzak, Esq. and Keli L. Gallo, Esq. at the e-mail or mailing addresses at the end of this Notice on or before December 6, 2022.

Through this judicial proceeding, the Court will evaluate whether the proposed Settlement Agreement is fair and reasonable to the region's very-low, low and moderate income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996). In addition, the purpose of the hearing is to consider whether the City's plan as summarized in the Settlement Agreement with FSHC and further supplemented in this Notice provides a realistic opportunity to satisfy the City's rehabilitation, Prior Round and Third Round "fair share" of the regional need for housing affordable to very-low income, low income and moderate income households pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.*, the substantive, applicable regulations of the New Jersey Council on Affordable Housing ("COAH"), the New Jersey Supreme Court's March 10, 2015 decision in the matter of In re: N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) and other applicable laws and judicial decisions related to a Fairness Hearing.

Fair Share Housing Center ("FSHC"), a public interest organization representing the housing rights of New Jersey's poor and an interested party in connection with the above-referenced lawsuit, has sought to enhance opportunities for very-low-, low- and moderate-income housing. The City and FSHC have resolved various substantive issues concerning the City's affordable housing obligation and the means by which the City intends to satisfy that obligation, subject to all required public hearings. The terms of the settlement have been memorialized in a Settlement Agreement executed on behalf of the City and FSHC which is available for public inspection and copying during regular business hours at the Office of the Municipal Clerk, City of Englewood, 2-10 North Van Brunt Street, Englewood, New Jersey 07631 and is also available on the City website ([www.cityofenglewood.org](http://www.cityofenglewood.org)).

The terms of the settlement with FSHC include, but are not limited to, the following:

1. The City has a Prior Round obligation of 152 units, which has been met through the following compliance mechanisms:
  - 64 credits from Westmoor Gardens-prior cycle family rental units
  - 24 credits from Shepherd House – 12 supportive housing bedrooms and 12 bonus credits
  - 9 credits from Independence Hall – 8 supportive housing bedrooms and 1 bonus credit
  - 4 supportive housing bedrooms/credits from J-ADD Group Home
  - 4 supportive housing bedrooms/credits from PSCH - Phelps Avenue
  - 4 supportive housing bedrooms/credits from PSCH – Knickerbocker Road
  - 4 units/credits from 167-169 Morse – family rental units
  - 34 credits from Garrett Apartments-prior cycle family rental units
  - 5 supportive housing bedrooms/credits from First Baptist Church

2. For the purposes of settlement, the parties agree that the City's Third Round (1999-2025) Prospective Need obligation is 819, which is partially satisfied through the following compliance mechanisms which create 95 affordable housing units:

- 64 credits for the extension of affordability controls at Westmoor Gardens
- 4 units/credits for Habitat for Humanity
- 3 units/credits for Foti
- 3 supportive housing bedrooms/credits for Vantage Health
- 6 units/credits for Englewood Avenue Senior
- 14 units/credits for Flatrock Square
- 1 unit/credit for Bristol Assisted Living

3. The parties agree that the City is eligible for a vacant land adjustment of the remainder of its Third Round obligation of 724 units ( $819 - 95 = 724$ ) and has a Third Round Realistic Development Potential (“RDP”) of 76 units. The City intends to satisfy that 76 unit RDP as follows:

- 33 units/credits for the ERA Hotel Pad
- 19 units/credits for Bristol
- 4 units/credits for 202 First Street
- 1 unit/credit for Vivian (ERA South)
- 19 rental bonus credits

4. The 76 units/credits to be created as set forth above, subtracted from the remaining Third Round obligation of 724 units, results in an unmet need of 648 units which shall be addressed as follows:

- The adoption of Overlay Zoning Ordinances for the following overlay districts as identified on Exhibit A “Map of Overlay Zones” attached to the Settlement Agreement at the listed densities below:

- 35du/ac on the First Student Charter Bus site (Block 2407, Lot 7 and Block 2801, Lot 1) overlay district
- 15du/ac in the Areas 1, 2, 3, 4, 6, 8, 10, 11, 12, 13 and 14 overlay district
- 50 du/ac in the Area 5 overlay district
- 35du/ac in the Area 7 overlay district
- 35du/ac in the Area 9 overlay district

- The establishment of a program that will assist non-profit affordable housing organizations in the development of affordable housing in Englewood. The City will encourage the involvement of non-profits in meeting its unmet need with a goal of providing 25 affordable units.

- The adoption of a Mandatory Set-Aside Ordinance that will require a set-aside of 20% for all new multi-family residential development of 5 or more units that becomes permissible through a use variance, density variance, rezoning or new redevelopment plan.

3. The parties have agreed that should the City's Third Round Prospective Need obligation be reduced by more than 10 percent as a result of the application of an opinion or decision by any Court or administrative agency having jurisdiction, the City can seek to reduce its Third Round Prospective Need obligation accordingly.

4. Upon the Court's approval of the Settlement Agreement, the City shall be granted a 10 year Judgment of Compliance and Repose through July 1, 2025.

Any interested party, including, without limitation, any very-low-, low- or moderate-income person residing in the housing region, any organization representing the interests of very-low-, low- and moderate-income persons, any owner of property in the City, or any organization representing the interests of owners of property in the City may file comments on, or objections to, the Settlement Agreements. Such comments or objections, together with copies of any supporting affidavits or other documents, must be filed in writing, on or before December 6, 2022. In addition, any person wishing to be heard, whether or not a written objection has been filed, shall advise of that intention in writing on or before December 6, 2022. If the Hearing proceeds via virtual technology, those interested parties filing comments or objections, and persons advising in writing of the desire to be heard, who desire to participate through virtual technology will be provided instructions on how to participate in the Hearing. Regardless of whether the Hearing proceeds in person or through virtual technology, failure to provide written comments and objections, or written notice of the desire to be heard, may preclude presentation of any evidence, oral presentation or argument. Written responses by any of the parties to the comments or objections shall be filed on or before December 22, 2022. Such comments,

objections and responses, together with copies of any supporting affidavits or other documents, must be filed in writing with the Honorable Christine A. Farrington, J.S.C., Superior Court of New Jersey, Law Division, at the Bergen County Justice Center, 10 Main Street, 3<sup>rd</sup> Floor, Hackensack, New Jersey 07601 and, if filed by an attorney, filed on eCourts. In addition, copies of all comments, objections and responses, together with copies of any supporting affidavits or other documents, must be forwarded by mail or e-mail to:

Francis J. Banisch, III, AICP, PP (Special Master)  
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Counsel for the City shall upload on eCourts all comments, objections and responses, together with copies of any supporting affidavits or other documents that were not filed directly on eCourts, for access by the Court.

This Notice is intended to inform all interested parties of the existence of the Settlement Agreement and the possible consequences of Court approval of the Settlement Agreement. It does not indicate any view by the Court as to the merits of the above referenced Mount Laurel action, the fairness, reasonableness, or adequacy of the settlement, or whether the Court will approve the settlement or enter a Judgment of Compliance and Repose.

Dated: November \_\_, 2022

/s/ Yancy Wazirmas

Yancy Wazirmas,  
Municipal Clerk