FILED
FEB 12 2026
Honorable
Janine M. Allen, J.S.C.

**PREPARED BY THE COURT:**

**IN THE MATTER OF THE DECLARATORY JUDGMENT ACTION OF THE BOROUGH OF CHATHAM, MORRIS COUNTY PURSUANT TO P.L. 2024, CHAPTER 2 (N.J.S.A. 52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
MORRIS COUNTY
DOCKET NO. MRS-L-000238-25

Civil Action

*Mt. Laurel Program*

**DECISION AND ORDER APPROVING MUNICIPAL HOUSING ELEMENT AND FAIR SHARE PLAN ("HEFSP") FOR THE FOURTH ROUND HOUSING CYCLE**

**THIS MATTER**, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program ("Program"), pursuant to the Complaint for Declaratory Judgment filed on January 28, 2025 ("DJ Complaint") by the Petitioner, **BOROUGH OF CHATHAM** ("Petitioner" or "Municipality"), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the "FHA"), and in accordance with Section II.A of Administrative Directive #14-24 ("Directive #14-24") of the "Program", seeking a certification of compliance with the FHA;

**AND THE COURT**, having entered its Decision and Order Fixing Municipal Obligations for "present need" and "prospective need" for the Fourth Round housing cycle on April 24, 2025 for the Municipality – specifically, therein establishing a "present need" obligation of **eight (8)** affordable housing units, and a "prospective need" obligation of **one hundred eighty one (181)** affordable housing units (collectively, the "Fourth Round Affordable Housing Obligation");

**AND IT APPEARING** that, the Municipality timely adopted a Resolution thereby endorsing its proposed Housing Element and Fair Share Plan ("HEFSP") for the implementation of its Fourth Round Affordable Obligation, and thus by or before June 30, 2025, as provided for and in accordance with the FHA and Section III.A of Directive #14-24 (as amended), and which Plan contained the elements set forth in the "Addendum" attached to Directive #14-24 (as amended)

**AND IT APPEARING** that, challenges to the Municipality's HEFSP ("Challenges") were timely and properly filed by Defendant/Interested Party, **Danbro Properties, LLC** ("Danbro Properties"), on August 31, 2025, and by **Fair Share Housing Center** ("FSHC"), on August 29, 2025, by **23 S. Passaic Owner, LLC**. and **33 S. Passaic Owner, LLC**. on August 27, 2025 (each a "Challenger", and collectively the "Challengers") by and through their respective counsel, in accordance with the FHA and Section III.B of Directive #14-24, wherein the Challengers disputed, in whole or in part, certain compliance mechanisms and/or other aspects of the Municipality's proposed HEFSP, as set forth in each Challenge;

**AND IT APPEARING** that, pursuant to the Program, the Administrative Office of the Courts ("AOC") appointed and assigned the case to Program member, the Hon. Stephan Hansbury, J.S.C. (Ret.) ("Program Member") to manage the proceedings, host settlement conferences, conduct sessions, and make recommendations to the Court in accordance with the FHA and the AOC's Directive #14-24, and that the Program Member appointed Joseph Burgis, PP/AICP, an independent affordable housing expert, as special adjudicator ("Special Adjudicator") in this case to work with, make recommendations to, and assist the Program, and who worked closely with the Program Member;

**AND IT APPEARING** that, on October 29, 2025, November 20, 2025, and December 18, 2025 settlement conferences were conducted on notice to all parties with the participation of local officials, town planner, planners for FSHC, and attorneys for the Municipality and attorneys for the Challengers, in accordance with the statutory framework and Directive #14-24, and with the goal of reaching a resolution;

**AND IT APPEARING** that, the parties engaged in extensive settlement negotiations before and during the settlement conferences, with the guidance and assistance of the Program Member and the Special Adjudicator;

**AND IT APPEARING** that, as a result of the settlement conferences conducted, the Municipality and the Challengers, FSHC, as well as 23 S. Passaic Owner, LLC. and 33 S. Passaic Owner, LLC. reached a resolution ("Settlement"); that the Settlement was placed on the record on December 18, 2025; that the Municipality and those Challengers entered into a settlement agreement dated December 8, 2025 (the "Settlement Agreement"), that was uploaded to eCourts on December 9, 2025, and which agreement sets forth the manner in which the Municipality shall address its Fourth Round affordable housing obligations (including a detailed description of Prior Round and Third Round Obligations as outlined therein); and the Program further directed that the governing body of the Municipality adopt a resolution to accept and confirm the Settlement, which resolution shall also be uploaded to eCourts;

**AND IT APPEARING** that as a result of the Settlement Agreement, between the Municipality and those Challengers aforesaid, Challenger Danbro Properties LLC. withdrew their challenge, confirming in correspondence to the Court dated December 10, 2025 and uploaded to eCourts on that same date;

Municipality, and is thereby in their best interests, and for good and sufficient cause having otherwise been shown:

**IT IS, THEREFORE**, on and as of this **12th day** of **February, 2026 ADJUDGED AND ORDERED**, that the Program Member's Report and Recommendations for approval of the Settlement and implementing Settlement Agreement, and the HEFSP of the Municipality as adopted (inclusive of the detailed report and recommendation of the Special Adjudicator referenced in the Program Member's Decision Recommendation), be, and the same hereby is **ACCEPTED** and **ADOPTED** in its entirety; and to that end, more specifically, it is further

**ORDERED AND ADJUDGED**, as follows:

**1.** That the Settlement and implementing Settlement Agreement, be, and the same hereby are **APPROVED**, with the exception that the Settlement Agreement be amended to remove any provision requiring the continued involvement of the Special Adjudicator, and since the parties have agreed that the Special Adjudicator shall have no further duties or obligations under the Settlement Agreement.

**2.** That, (i) the endorsed HEFSP of the Municipality for the Fourth Round housing cycle previously filed in accordance with the requirements of the FHA and Directive #14-24 (as amended), be, and the same hereby is **APPROVED** by the Court; and (ii) that the Challenge thereto filed by Danbro Properties, LLC, be, and the same hereby is **DISMISSED as withdrawn**.

**3.** That, in accordance with N.J.S.A. 52:27D-304.1(f)(2)(c), the Petitioner Municipality is hereby immediately authorized to adopt and file an Amended HEFSP that contains the terms of the Settlement and Settlement Agreement, as well as to proceed, without further delay, to notice and adopt the implementing ordinances and resolutions proposed within the Amended

**AND THE COURT**, having received the Program Member's report and Decision Recommendation and accompanying detailed Statement of Reasons contained therein, dated January 29, 2026, since posted to the eCourts jacket for this matter at Trans. ID: LCV2026329081, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

**AND THE COURT**, having been advised that (i) the Special Adjudicator has recommended acceptance of the Settlement, (ii) the Program Member has recommended acceptance of the Settlement as reasonable and in furtherance of the interests of low- and moderate-income households in the Municipality (collectively, the "Recommendations"), and that (iii) the Program Member further recommends that the Court adopt the findings and recommendations set forth in the Report and enter an Order, *forthwith*, implementing the terms of Settlement and approving the Settlement Agreement, and to thereby formally approve the Municipality's HEFSP (as adopted) (as amended) to implement the "present need" and "prospective need" obligations of the Municipality for the Fourth Round housing cycle;

**AND THE COURT**, having reviewed and considered the Program Member's Report and Recommendations, having been satisfied that an arm's length Settlement was reached and entered into by and between the Municipality and FSHC and 23 S. Passaic Owner, LLC. and 33 S. Passaic Owner, LLC. and understanding that Danbro Properties LLC. withdrew their Challenge on December 10, 2025;

**AND THE COURT**, having found and determined that the proposed HEFSP as adopted is fair and equitable, shall provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the

HEFSP to ensure implementation of its Fourth Round HEFSP, incorporating therein any changes from the Program and this Court's Order, and on or before **MARCH 16, 2026**;[1] and

**4.** That, upon the adoption and filing of the foregoing, the Court shall schedule a Fairness and/or Compliance Hearing to consider approval of the Municipality's Amended HEFSP so as to issue and thereafter enter its formal Certification of Compliance and repose from builder's remedy and/or exclusionary zoning litigation in the Fourth Round housing cycle and the period of 2025 to 2035, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b), (c), Section III.F of Directive #14-24 and for publication pursuant to N.J.S.A. 52:27D-304.1(f)(2)(e).

**5. Failure to meet the March 16, 2026 deadline shall preclude the Court's issuance of a Certification of Compliance and Repose as required by the FHA and Directive #14-24 (as amended) and will thereby result in the Municipality losing immunity from builder's remedy and/or exclusionary zoning litigation.**

**IT IS FURTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and counsel for all Challengers upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

**HON. JANINE ALLEN, J.S.C.**
*Designated Mt. Laurel Judge – Morris/Sussex Vicinage*

(X) Challenged.

[1] **Note:** The statutory deadline for municipalities to adopt all necessary implementing ordinances and resolutions for non-challenged HE/FSPs, or alternatively, a binding resolution to commit to adopting the implementing ordinances and resolutions following settlement and/or resolution of a Program-submitted dispute (with necessary adjustments) was March 15, 2026. Because the deadline falls on a Sunday, the deadline became Monday, **March 16, 2026**, as the next day that was neither a Saturday, Sunday, or a legal holiday, and thus adoptions made and confirmed on and as of March 16, 2026, are deemed compliant. *See* R. 1:3-1.

## STATEMENT OF REASONS

[R. 1:7-4(a) – Directive #14-24, Section III.F]

Having reviewed and considered the Program Member's Report and Recommendations dated January 29, 2026 (inclusive of the detailed report and recommendation of the Special Adjudicator referenced in the Program Member's Decision Recommendation), as well as the terms of Settlement reached by and between the Municipality and Challengers, placed on the record by the parties before the Program Member on December 18, 2025, and thereafter embodied in the written Settlement Agreement entered into and executed by those parties; and understanding that Challenger Danbro Properties, LLC. withdrew their Challenge following that Settlement, and having further determined there is no need to take testimony to resolve any relevant factual issue, the Court is satisfied, finds and concludes:

(i) that an arm's length Settlement was reached and entered into by and between the parties, and that the terms of the Settlement attained are fair and equitable;

(ii) that the remaining objections raised by the Challenger, Danbro Properties are dismissed as withdrawn;

(iii) that the proposed HEFSP as adopted and being amended to incorporate the provisions of the Settlement Agreement, is fair and equitable, and shall provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the Municipality; and

(iv) that the HEFSP, as amended, is thereby in the best interests of the protected class of low- and moderate-income households in the Municipality. The Settlement disposes of the Challenges filed.

Accordingly, the Court hereby adopts in full the Report and Recommendations of the Program Member and accepts the same for the detailed findings and reasons set forth therein. As a result, the Municipality retains all the protections of the above-referenced amendments to the FHA, continues to retain immunity from exclusionary zoning litigation, and that the Court retains jurisdiction for the Municipality's adoption of implementing ordinances as required in accordance with the statutory framework and AOC Directive #14-24, by or before March 16, 2026, and thereupon, the Court's issuance of a Certification of Compliance.

An appropriate form of Order implementing the Program Member's Report and Recommendations accompanies this Statement of Reasons.

**SO ORDERED.**