Fair Share Housing Center
510 Park Boulevard
Cherry Hill, New Jersey 08002
P: 856-665-5444
F: 856-663-8182
Attorneys for Fair Share Housing Center
By: Esmé Devenney, Esq. (409632022)
esmedevenney@fairsharehousing.org

FILED
JUN 26 2026
Honorable
Janine M. Allen, J.S.C.

IN THE MATTER OF THE APPLICATION OF BOROUGH OF CHATHAM, COUNTY OF MORRIS.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION—MORRIS COUNTY

Docket No. MRS-L-238-25

Civil Action
(Mount Laurel)

Consent Order Final Compliance Certification (N.J.S.A. 52:27D-304(q))

THIS MATTER having come before the Court via the joint request of the Borough of Chatham through its counsel, Jonathan E. Drill Esq., of Stickel, Koenig, Sullivan & Drill, LLC as well as Fair Share Housing Center, through its counsel Esmé M. Devenney, Esq. (on behalf of Fair Share Housing Center), seeking a certification of compliance, with conditions specified in paragraph nine, with the Fair Housing Act ("FHA"); and

WHEREAS, the Borough of Chatham (the "Borough" or "Chatham") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action on January 28, 2025; and

WHEREAS, the Borough having filed its adopted Fourth Round Housing Element and Fair Share Plan on June 24, 2026; and

WHEREAS, Fair Share Housing Center ("FSHC") and 23 S Passaic Owner LLC and 33 South Passaic Owner LLC and Danbro Properties having filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025; and

WHEREAS, Danbro having withdrawn its challenge on December 10, 2025; and **WHEREAS,** the Borough, FSHC, and 23 S Passaic Owner LLC and 33 South Passaic Owner LLC having previously presented settlement agreements to the Court, which were filed on eCourts on January 29, 2025, and which settlement agreements are incorporated herein by reference; and

WHEREAS, the Court having entered an Order on February 12, 2026, accepting and adopting the Program Member's Report and Recommendations for approval of the Borough's HEFSP;

WHEREAS, the Borough having filed implementing ordinances and resolutions on March 10, 2026, and

WHEREAS, FSHC having reviewed the Borough's filings in accordance with the parties' settlement agreement and confirmed that the Borough has complied with all terms outlined in the mediation agreement; and

WHEREAS, the Court having reviewed the Borough's attachments, and implementing ordinances and resolutions, incorporating therein any changes from the Program and Court's prior order(s) and determined that they meet the "objective standard" and are in compliance with the Fair Housing Act and the Mount Laurel doctrine so long as the conditions set forth in this order are met; and

WHEREAS, the Court incorporates the Court's prior orders and for good cause shown:

IT IS on this 26th day of June, 2026, **ORDERED** as follows:

1. The Borough's Fourth Round HEFSP, attachments, and applicable implementing ordinances and resolutions, collectively referenced in SCHEDULE-1 hereto as Exhibit P-1 through Exhibit P-4 (inclusive) and herein as the "Implementing Ordinances & Resolutions", are hereby admitted into evidence and entered into the record.

2. Subject to the satisfaction of the Conditions of this Order and the deadlines established therein, the Borough of Chatham's Fourth Round HEFSP (Exhibit P-1) is hereby approved and deemed to meet the "objective standard" pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) of complying with the Fair Housing Act and the Mount Laurel doctrine and the Borough is granted a Compliance Certification and a judgment of compliance and reose as to its Rehabilitation Obligation ("Present Need"), its Prior Round Obligation (1987-1999), its Third Round Obligation (consisting of both its Gap Obligation for 1999-2015 and its Prospective Need Obligation for 2015-2025), and its Fourth Round obligation pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) ("FHA"), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), applicable Council on Affordable Housing (hereinafter "COAH") substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.

3. The Borough's Compliance Certification and judgment of compliance and repose shall remain in effect for ten (10) years beginning on July 1, 2025 and ending on June 30, 2035, and during this ten (10) year period the Borough shall have repose from exclusionary zoning litigation, including, but not limited to, Builder's Remedy lawsuits, as provided for in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. The Borough's Compliance Certification and judgment of compliance and repose shall remain subject, however, to revocation or other Order of the Court that does or may hereafter issue, on notice of motion to the Borough and all interested parties and good cause shown, at any time during the pendency of the Fourth Round Housing cycle.

4. As per the Borough's HEFSP and earlier court orders, the Borough's Present Need or Rehabilitation Obligation is 8, the Borough's Prior Round Obligation (1987-1999) is 77, the Borough's Third Round Obligation (1999-2025) is 337, and the Borough's Fourth Round Prospective Need (2025-2035) is 181 units.

5. The Borough will address its Present Need of 8 units through participation in the Morris County Housing Rehabilitation Program.

6. The Borough's Prior Round Obligation is 77. The Borough received a vacant land adjustment and has a Prior Round realistic development potential (RDP) of 23 affordable units. The Borough's 23 unit RDP shall be addressed with the following mechanisms:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
Chatham @ Willows (B 106, L 1.34, 11.36, 1.38, 1.40, 1.42, 1.44, 1.46, 1.48)	Family	8		For-Sale	Completed
Willows Courts	Family	2	2	Rental	Completed
River Commons	Family	2	2	Rental	Completed
Chestnut Ridge	Senior	4		Rental	Completed
Averett (B 98, L 2)	Family	1		Rental	Completed
Howardson Property	RCA	2			Completed
Total		**19**	**4**		

7. The Borough's Third Round obligation is 337. The Borough received a vacant land adjustment and has a Third Round RDP of 71 affordable units. The Borough's Third Round 71 unit RDP shall be addressed with the following mechanisms which produces a 2-6 credit surplus that is applied to the Third Round Unmet Need:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
The Ivy (B 135, L 9, 10, 11, and 12)	Family	37	17	Rental	Completed
17-37 Bowers Lane (B 122, L 13 to 17)	Family	5 to 7*		Rental	Zoned
4 Watchung Avenue (B 134 L 1)	Family	6 to 8*		Rental	Zoned
Extension of Expiring Controls (Schindler Court)	Family	8		For-Sale	Completed
*The range is due to the 15% affordable set-aside for rental units and 20% set-aside for for-sale units.					
Total		**56 to 60**	**17**		

a. The Borough's combined Third Round and Prior Round unmet need of 320 affordable units was satisfactorily addressed in accordance with the compliance mechanisms detailed in Paragraph 8 of the June 14, 2021 Settlement Agreement between the Borough and FSHC. Those mechanisms shall be maintained, including the mandatory set-aside ordinance, with the following amendments to increase the likelihood that they shall generate affordable housing to address the Borough's substantial unmet need.

i. **23-33 South Passaic (B 121, L12 & 13).** 23 South Passaic Owners and 33 South Passaic Owners (collectively, "23-33 South Passaic") filed a challenge to the Township's Housing Element and Fair Share Plan with regard to this site on August 27, 2025. The Borough and 23-33 South Passaic have engaged in on good faith discussions to include the project in the Borough's Third Round Housing Element and Fair Share Plan so as to provide 4 affordable family units at the Property.

ii. **BCUW (formerly Post Office Plaza) (B 121, L 10-& 17, and B 122, L 1-2 & 13-18).** Chatham Borough has partnered with the Bergen County United Way to construct a 100% affordable 15-unit family, non-age-restricted rental development on B 121, Lot 10. This project obtained all required funding and began construction, but construction has since ceased due to actions by the Department of Community Affairs (DCA").

iii. **246 Main Street (B 57, L 19).** The Borough shall provide FSHC with the bedroom and income distribution, as well as evidence of UHAC-compliant deed restriction, for these three (3) affordable units created pursuant to the Borough's mandatory set-aside ordinance.

iv. **Gateway Overlay Zones 1 & 2.** Concerns have been raised as to whether the overlay zoning currently in place for Gateway Overlay Zones 1 & 2, as detailed in the June 14, 2021 First Amendment during the Third Round between FSHC and the Borough, remains adequate to address the Borough's unmet need obligations. In the three (3) year period since the zoning was adopted, no parcel in the overlay zones has redeveloped so not affordable housing has been produced. And the nearest affordable housing redevelopment project in the Borough, The Ivy, redeveloped at a density (54 du/a) and with a redevelopment plan and PILOT for that project. The Borough's professionals take the position that the zoning is adequate but have suggested that the Borough may be willing to consider the possibility of adopting a redevelopment plan for the parcels in the overlay zones to strengthen the potential for affordable housing to be produced. To enable a public presentation and consideration of a redevelopment plan before there is litigation as to this compliance mechanism, the parties agree as follows

The Borough shall have six months from January 1, 2026, to provide public notice of a potential draft redevelopment plan for the overlays and to consider whether it would like to proceed with adopting such redevelopment plan. In other words, by July 1, 2026, the Borough would decide following a public process whether to adopt a redevelopment plan.

If the Borough decides to adopt a redevelopment plan, it shall provide notice in writing and a copy of the draft plan to FSHC and the New Jersey Superior Court on or before July 1, 2026. FSHC shall have thirty (30) days from receipt of said plan to either comment/object to its terms or to consent to its adoption. If the parties cannot resolve any objection within that thirty (30) days, the dispute shall be submitted to the New Jersey Superior Court for resolution prior to adoption of the plan.

8. If the Borough decides not to adopt a redevelopment plan, it shall provide notice in writing to FSHC and the New Jersey Superior Court on or before July 1, 2026. FSHC and any other challenger shall have thirty (30) days from receipt of such notice to object in writing with the New Jersey Superior Court to the adequacy of the existing overlay zones to address the Borough's affordable housing obligations. The New Jersey Superior Court shall resolve any such objection and issue any necessary orders. The Borough's Fourth Round Obligation is 181. The Borough received a vacant land adjustment and has a Fourth RDP of 5 affordable units. The Borough's Fourth Round 5 unit RDP shall be addressed with the following mechanisms:

9. The Borough and FSHC agree that following conditions remain to be met as conditions of compliance certification:

a. The Borough shall provide a draft UHAC deed restriction for 23-33 South Passaic by June 30, 2026.

b. The Borough shall provide evidence that construction will resume at BCUW and provide a realistic plan to confirm that construction will be completed within 2028 by June 30, 2028.

c. The Borough shall provide the bedroom and income distribution, and UHAC deed restriction for 246 Main Street by June 30, 2026.

d. The Borough shall provide its Affordability Assistance manual by August 30, 2026.

e. The Borough shall provide its Rehabilitation Manual by August 30 2026.

10. Each party reserves its rights under applicable law in the event of substantial changes in circumstances.

11. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.

b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.

c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

12. The Court shall retain jurisdiction for the purpose of enforcing the terms and conditions of this Certification of Compliance and Repose and the Borough's adopted Fourth Round HEFSP.

13. A copy of this Order shall be entered on eCourts and shall be effective as of the date of filing.

Hon. Janine M. Allen, J.S.C.

On behalf of the Borough of Chatham:

6/23/2026

Jonathan E. Drill, Esq.

On behalf of Fair Share Housing Center:

Esmé M. Devenney, Esq.