

WEINER LAW GROUP_{LLP}

629 Parsippany Road

Parsippany, New Jersey 07054

GLENN C. KIENZ
Member of the Firm

P (973) 403-1100 F (973) 403-0010
www.weiner.law

gkienz@weiner.law

June 29, 2020

VIA E-MAIL adamgordon@fairsharehousing.org
and lpmail@dca.nj.gov and REGULAR MAIL

Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, New Jersey 08002

Sean Thompson, P.P., Director
State of New Jersey
Department of Community Affairs
101 South Broad Street
P.O. Box 800
Trenton, New Jersey 08625-0800

**Re: In the Matter of the Town of Dover Complaint for Declaratory Judgment
Demonstrating Municipal Compliance with Constitutional Mount Laurel
Obligation
Docket No. MRS-L-001696-15
Our File No. DVR062**

Dear Messieurs Gordon and Thompson:

On behalf of the Town of Dover, please accept this Midpoint Review Report in conformance with the requirements set forth in a Settlement Agreement between the Town of Dover ("Dover") and Fair Share Housing Center ("FSHC"), more specifically paragraph 16.a. and 16.b. which Settlement Agreement is dated August 16, 2016.

Relevant Background

Dover filed the above-captioned matter on July 8, 2015, seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015). The Court thereafter conducted a Fairness/Compliance Hearing on June 16, 2016 at which time the settlement between FSHC and Dover was placed on the record. Thereafter, on June 16, 2016¹, the Court entered an Order Granting Substantive Certification and a Judgment of Compliance and Repose.

¹ The Court subsequently entered an Amended Order Granting Substantive Certification and Judgment of Compliance and Repose on June 24, 2016 in order to correct a minor typographical error in the original Order entered on June 16, 2020.

for a period of ten (10) years from June 16, 2016. The Court further granted immunity against Builder's Remedy litigation and exclusionary zoning challenges for a period of ten (10) years and also from June 16, 2016. Although the settlement between FSHC and Dover was placed on the record on June 16, 2016, the Settlement Agreement was memorialized in a written document dated August 16, 2016.

Midpoint Review

Paragraph 16 of the August 16, 2016 Settlement Agreement provides "The Fair Housing Act includes two provisions regarding action to be taken by Dover during the ten-year period of protection provided in this agreement. Dover agrees to comply with those provisions as follows:

For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, Dover will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to Dover, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

The August 16, 2016 Settlement Agreement outlines Dover's Affordable Housing obligations:

Rehabilitation Share (per Kinsey Report) 312 units (see Chart attached hereto);

Prior Round Obligation (pursuant to N.J.A.C. 5:93) 6 units (see Chart attached hereto);

Third Round Prospective Need (per Kinsey Report as adjusted through the Settlement Agreement) 178 units (see Chart attached hereto)

Pursuant to the Settlement Agreement, we are confirming that Dover, by way of this Status Report, has implemented all requirements of the Settlement Agreement. The Ordinances authorizing inclusionary developments and requiring mandatory set asides are fully adopted and are in full force and effect. There are no unfulfilled mechanisms that need to be completed.

Since the Judgment of Compliance and Repose was filed by the Court on June 16, 2016, the Town of Dover Planning Board granted preliminary and final major site plan approval to Dover Veterans Housing Associates, Inc. in regard to property designated as Block 1219, Lot 2 on the Town of Dover Tax Assessment Map. The approval was granted on March 22, 2017 which approval was memorialized in a Resolution adopted on April 26, 2017. The Dover Planning Board granted approval to permit the Developer to construct a 4-story building with 68 units of affordable housing. The breakdown of units is 9 one-bedroom units, 42 two-bedroom units and 17 three-bedroom units. Subsequently, the applicant returned to the Town of Dover Planning Board on June 27, 2018 whereupon the Dover Planning Board granted amended site plan approval thereby permitting the applicant to increase the total number of dwelling units from 68 units to 70 units of affordable housing. The applicant thus added two (2) new units of affordable housing inclusive of 1 two-bedroom unit and 1 three-bedroom unit. The Town of Dover Planning Board approved the application on June 27, 2018 and memorialized its decision in a Resolution adopted on July 25, 2018.

By copy of this letter, which will be posted on the website of the Town of Dover, we are hereby informing and inviting interested parties to make comment to Dover and FSHC on the issue of whether any sites no longer present the realistic opportunity for development and should be replaced, and whether mechanisms to meet unmet needs should be revised or supplemented in accordance with the Settlement Agreement and as stated in the Settlement Agreement. Any interested party may, by proper motion, request a hearing before the Court regarding these issues.

Very Low Income Analysis

Paragraph 16. b. of the Settlement Agreement provides as follows:

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, Dover will post on its municipal website, with a copy provided to FSHC, 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 Dover and FSHC on the issue of whether Dover has complied with its very low income housing obligation under the terms of this settlement.

Paragraph 16. b. of the Settlement Agreement indicates that 13 percent (13%) of all units referenced in the Agreement shall be very low-income units. Half of those units must be available for families. Since the Judgment of Compliance and Repose was filed by the Court on June 16, 2016, the Town of Dover Planning Board granted preliminary and final major site plan

approval to Dover Veterans Housing Associates, Inc. in regard to property designated as Block 1219, Lot 2 on the Town of Dover Tax Assessment Map. The approval was granted on March 22, 2017 which approval was memorialized in a Resolution adopted on April 26, 2017. The Dover Planning Board granted approval to permit the Developer to construct a 4-story building with 68 units of affordable housing. The breakdown of units is 9 one-bedroom units, 42 two-bedroom units and 17 three-bedroom units. Subsequently, the applicant returned to the Town of Dover Planning Board on June 27, 2018 whereupon the Dover Planning Board granted amended site plan approval thereby permitting the applicant to increase the total number of dwelling units from 68 units to 70 units of affordable housing. The applicant thus added two (2) new units of affordable housing inclusive of 1 two-bedroom unit and 1 three-bedroom unit. The Town of Dover Planning Board approved the application on June 27, 2018 and memorialized its decision in a Resolution adopted on July 25, 2018.

By copy of this letter, which will be posted on the website, Dover hereby invites any interested parties to submit comments to Dover and FSHC on the issue of whether Dover has complied with its very low-income housing obligations under the terms of the settlement.

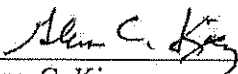
Conclusion

Dover is fully compliant with the Mount Laurel Constitutional Housing Obligations that all municipalities are required to provide through their Land Use Ordinances. Dover through its Zoning Ordinances continues to provide a realistic opportunity for the construction by the private sector of Dover's Fair Share Housing Obligation.

If you have any questions in connection herewith, please feel free to contact me.

Very truly yours,

WEINER LAW GROUP LLP
Attorney for the Town of Dover

By: 
Glenn C. Kienz
A Member of the Firm

GCK:pag

cc Mayor and Board of Alderman of the Town of Dover

Tamara Bross, Secretary, Town of Dover Planning Board-Via E-Mail tbross@dover.nj.us

William Isselin, Chief Code Enforcement Officer-Via E-Mail wisselin@dover.nj.us

Patrick Laverty, Chief Licensing Inspector-Via E-Mail plaverty@dover.nj.us