

AFFIDAVIT OF PUBLICATION

Order Number : 10645183

STATE OF WISCONSIN
Brown County

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10/06/2024

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Legal Clerk

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Notary Public State of Wisconsin County of Brown

8-6-27
My commission expires

DENISE ROBERTS
Notary Public
State of Wisconsin

RECEIVED
OCT 11 2024
BOROUGH OF SPRING LAKE HEIGHTS

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Borough Council of Spring Lake Heights

HELEN MOTZENBECKER
Plaintiff,

v.

BOROUGH OF SPRING LAKE HEIGHTS,
BOROUGH COUNCIL OF SPRING LAKE
HEIGHTS, and BOROUGH OF SPRING LAKE
HEIGHTS LAND USE BOARD

Spring Lake Heights,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY
DOCKET NO. MON-L-0039-21
Civil Action
(Mount Laurel)
ORDER SETTING FINAL COMPLIANCE
HEARING

IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF SPRING LAKE
HEIGHTS, COUNTY OF MONMOUTH

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY
DOCKET NO. MON-L-001916-21
Civil Action
(Mount Laurel)

This matter having been opened to the court through the filing a Mt. Laurel exclusionary zoning suit (the "Builder's Remedy Action") on behalf of Helen Motzenbecker (the "Developer") represented by Law Office of Abe Rappaport (Jeffrey Kantowitz, Esq. appearing) seeking a builder's remedy in regard to property owned by the Developer designated on the Borough of Spring Lake Heights tax map as Block 59, Lot 39 also bearing the street address of 2014 State Highway 71, Spring Lake Heights, New Jersey (the "Subject Property") against the Borough of Spring Lake Heights, Borough Council of the Borough of Spring Lake Heights (the "Borough" or "Spring Lake Heights") represented by Pashman Stein Walder Hayden, PC (Andrew Bayer, Esq. appearing); and Borough of Spring Lake Heights Land Use Board represented by King, Kilrick Jackson, McWeeny & Well, LLC (Alexandra K. Ehrhardt, Esq. appearing); and Spring Lake Heights thereafter having filing a Declaratory Judgment Complaint to have the Court determine the Borough's fair share affordable housing obligation and to permit the Borough time to adopt a compliance plan (the "DJ Action") in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mt. Laurel IV"); and the Court having appointed Kendra A. Lelle, P.P., A.I.C.P., LLA as the Special Court Adjudicator; and Fair Share Housing Center ("FSHC") (Rachel N. Lokken, Esq. & William Fairhurst, Esq. appearing) having appeared in both the Builder's Remedy Action and the Declaratory Judgment Action; and the Developer and Spring Lake Heights having entered into a Settlement Agreement dated May 29, 2022 with respect to the Builder's Remedy Action only (the "Builder's Remedy Settlement Agreement"); and the Court having scheduled a Fairness and Preliminary Compliance Hearing (the "Builder's Remedy Fairness Hearing") on August 4, 2022 to consider approval of the Settlement Agreement, and to determine whether the settlement is fair, reasonable and adequately protects the interest of very low, low and moderate income households; and the Borough having provided proper public and actual notice of the Fairness Hearing; and the Court Special Adjudicator, Kendra A. Lelle, P.P., AICP, LLA having issued a report to the Court dated August 1, 2022 recommending Court approval of the Builder's Remedy Settlement Agreement; and the Court having conducted a Fairness Hearing on August 4, 2022 and having considered the testimony of Jennifer Boehm, P.P., AICP on behalf of the Borough, Special Adjudicator Kendra A. Lelle, P.P., AICP, LLA on behalf of the Court and Art Bernard, P.P., AICP on behalf of the Developer; and the court having admitted into evidence the (1) Certification of Service as to the Notice of the Fairness and Preliminary Compliance Hearing as P-1; (2) Settlement Agreement by and between Spring Lake Heights and Helen Motzenbecker dated May 29, 2022 as P-2; (3) Proposed Borough of Spring Lake Heights Ordinance Rezoning the Property (the "Zoning Ordinance") as P-3; and Report of Special Adjudicator Kendra A. Lelle, P.P., AICP, LLA dated August 1, 2022 as C-1; and the Court having entered and Order of Fairness and Preliminary Compliance approving the Builder's Remedy Settlement Agreement; and the Borough and Fair Share Housing Center having entered into a Settlement Agreement on March 4, 2024 in the DJ Action (the "Fair Share Settlement Agreement"); and the Court having scheduled a Fairness Hearing to consider approval of the Fair Share Settlement Agreement on April 19, 2024, and to determine whether the settlement is fair, reasonable and adequately protects the interest of very low, low and moderate income households; and the Borough having provided proper public and actual notice of the Fairness Hearing; and the Court Special Adjudicator, Kendra A. Lelle, P.P., AICP, LLA having issued a report to the Court dated April 12, 2024 recommending Court approval of the Fair Share Settlement Agreement; and the Borough (Andrew Bayer, Esq. appearing), Fair Share Housing Center (Rachel N. Lokken, Esq. appearing), Lombardi Residential, LLC (John Sorio, Esq. appearing), and 2015 Route 71 Holdings, LLC, successor in interest to Highwood Development & Holdings, LLC (Andrew Karas, Esq. appearing); and the Borough having entered the following exhibits into evidence at the Fairness Hearing: Certification of Service of Notice and Service of Fairness Hearing as P-1; Fair Share Settlement Agreement and Builder's Remedy Settlement Agreement as P-2; Vacant Land Inventory and Analysis Report prepared by Jennifer C. Boehm, P, AICP dated April 2024 as P-3; Ordinance 2022-016 Entitled Mixed-Use AH-1 Zoning District (Motzenbecker Zoning Ordinance) as P-4; Settlement Agreement between Lombardi Residential, LLC and Borough of Spring Lake Heights dated July 17, 2023 as P-5; Ordinance 2023-08 Creating the Affordable Housing AH-2 Zone District adopted by the Borough on November 22, 2023 (Lombardi Zoning Ordinance) as P-6; and Maps identify the MU-1 and MU-2 Zoning Districts as P-7; and the Court having considered the testimony of Jennifer C. Boehm, PP, AICP and the Court having entered an Order of Preliminary and Final Compliance on July 11, 2024 setting the final compliance hearing on September 20, 2024; and the Court having subsequently adjourned the hearing date for the final compliance hearing until November 1, 2024; and for good cause having been shown:

IT IS on this 2nd day of October, 2024;

1. The Court will conduct a Compliance Hearing for the Court to consider approval of the Borough's Housing Element and Fair Share Plan and the issuance of a Judgment of Compliance and Release on November 1, 2024 at 1:30 p.m. which will provide the Borough immunity from all Mt. Laurel lawsuits through July 1, 2025 other than actions

brought to enforce the terms of the Settlement Agreement or the Court's orders. No further notice shall be required.

2. The Borough shall continue to be immune from Mt. Laurel lawsuits until one month after the date the Final Compliance Hearing is held.

3. Any objections to the Borough's adopted and endorsed Housing Element and Fair Share Plan must be filed in writing together with copies of any supporting affidavits or documents on or before October 18, 2024 with the Hon. Linda Grasso Jones, J.S.C., Superior Court of New Jersey, Monmouth County Courthouse, Post Office Box 1270, Freehold, New Jersey 07728, with duplicate copies forwarded by mail to counsel for Fair Share Housing Center, counsel for the Borough of Spring Lake Heights, and Special Adjudicator Kendra Lalle, P.P., AICP.

4. The Borough of Spring Lake Heights shall file any reply to those objections on or before October 23, 2024.

5. The Special Adjudicator shall submit her report to the court no later than October 28, 2024 opining whether the Borough's Housing Element and Fair Share Plan creates a realistic opportunity to satisfy the Borough's fair share of the regional need for housing affordable to low and moderate-income housing.

6. Upon such a finding, the court shall issue a Judgment of Compliance and Repose or the judicial equivalent of substantive certification pursuant to the New Jersey Fair Housing Act; which, once entered, will maintain the Borough of Spring Lake Heights' immunity from all Mount Laurel lawsuits through July 1, 2025 other than actions brought to enforce the terms of the Settlement Agreement or the Court's orders. A Final Judgment of Compliance and Repose may issue without further hearing should the Special Adjudicator file a certification of compliance that all conditions of the settlement have been met and no written objection to the Special Adjudicator's certification is received.

7. All other terms and conditions of the Court's July 11, 2024 Order of Fairness and Preliminary Compliance not inconsistent with this Order shall remain in effect.

8. Counsel for the Borough shall provide copies of this Order to all counsel of record, the Court Adjudicator and the Service List within seven (7) days of the date hereof.

s/s Linda Grasso Jones, J.S.C.
Hon. Linda Grasso Jones, J.S.C.
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