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A Professional Corporation

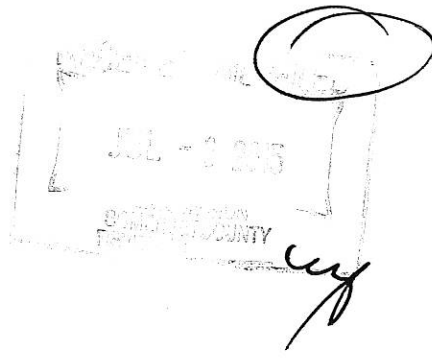
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Somerville, New Jersey 08876

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Attorneys for: Township of Branchburg



IN THE MATTER OF THE TOWNSHIP
OF BRANCHBURG'S HOUSING
ELEMENT AND FAIR SHARE PLAN

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: SOMERSET COUNTY
: DOCKET NUMBER: **L-898-15**

:
: Civil Action
:
: COMPLAINT FOR
: DECLARATORY JUDGMENT
:
:
:

Plaintiff Township of Branchburg ("Branchburg"), a municipal corporation of the State of New Jersey, in the County of Somerset, states by way of complaint as follows:

Nature of Action

1. Pursuant to the Supreme Court of New Jersey's decision and order on March 10, 2015 in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (the "March 10th Decision"), Branchburg seeks a judgment of compliance and repose with respect

to its affordable housing plan. Branchburg seeks initial immunity from builders' remedy lawsuits for a period of at least five months so that it can finalize a Housing Element & Fair Share Plan ("HEFSP"). Ultimately, Branchburg seeks a declaration that its HEFSP and implementing ordinances are presumptively valid in the event that it must later defend against exclusionary zoning litigation during the period to which the Council on Affordable Housing's ("COAH") third round rules ("Third Round Rules") apply.

Parties

2. Branchburg is a municipality of the State of New Jersey, having its principal office at 1077 U.S. Route 202, Branchburg, New Jersey 08876.

3. John J. Hoffman is the acting Attorney General of the State of New Jersey with a principal office at the Division of Law and Public Safety, Division of Law, 25 Market Street, Trenton, New Jersey 08625. The Attorney General is authorized to act on behalf of COAH.

Persons and Entities Presumptively Entitled to Service Pursuant to the March 10th Decision

4. Fair Share Housing Center ("FSHC") is a non-profit organization engaged in advocacy for affordable housing with a

principal place of business at 510 Park Boulevard, Cherry Hill, New Jersey 08002.

5. The New Jersey Builders Association ("NJBA") is a trade association for the construction industry with a principal place of business at 200 American Metro Boulevard, Suite 123, Hamilton, New Jersey 08619. NJBA is represented by Stephen Eisdorfer, Esq., Hill Wallack LLP, 202 Carnegie Center, P.O. Box 5226, Princeton, New Jersey 08543. Branchburg will serve Mr. Eisdorfer on NJBA's behalf.

6. The New Jersey State League of Municipalities ("NJSLOM") is an association of New Jersey municipalities with a principal office at 222 West State Street, Trenton, New Jersey 08608. NJSLOM is represented by Edward J. Buzak, Esq. of The Buzak Law Group, LLC, Montville Office Park, 150 River Road, Suite N-4, Montville, New Jersey 07045. Branchburg will serve Mr. Buzak on NJSLOM's behalf.

7. Upon information and belief, Kenneth Martin and Alice Martin are individuals represented by Jeffrey Kantowitz, Esq. of the Law Office of Abe Rappaport, 195 Route 46 West, Suite 6, Totowa, New Jersey 07512. Branchburg will serve Mr. Kantowitz on the Martins' behalf.

8. Upon information and belief, MTAE, Inc. is a corporation represented by Jeffrey Kantowitz, Esq. of the Law Office of Abe

Rappaport, 195 Route 46 West, Suite 6, Totowa, New Jersey 07512. Branchburg will serve Mr. Kantowitz on MTAI, Inc.'s behalf.

9. Bernards Township ("Bernards") is a municipality of the State of New Jersey having its principal office at 1 Collyer Lane, Basking Ridge, New Jersey 07920. Bernards is represented by Jonathan E. Drill, Esq. of Stickel, Koenig, Sullivan & Drill, LLC, 571 Pompton Avenue, Cedar Grove, New Jersey 07009. Branchburg will serve Mr. Drill on Bernards's behalf.

10. Clinton Township ("Clinton") is a municipality of the State of New Jersey having its principal office at 1225 Route 31 South, Lebanon, New Jersey 08833. Clinton is represented by Jonathan E. Drill, Esq. of Stickel, Koenig, Sullivan & Drill, LLC, 571 Pompton Avenue, Cedar Grove, New Jersey 07009. Branchburg will serve Mr. Drill on Clinton's behalf.

11. Union Township ("Union") is a municipality of the State of New Jersey having its principal office at 1976 Morris Avenue, Union, New Jersey 07083. Union is represented by Jonathan E. Drill, Esq. of Stickel, Koenig, Sullivan & Drill, LLC, 571 Pompton Avenue, Cedar Grove, New Jersey 07009. Branchburg will serve Mr. Drill on Union's behalf.

12. Greenwich Township ("Greenwich") is a municipality of the State of New Jersey having its principal office at 321 Greenwich Street, Stewartsville, New Jersey 08886. Greenwich is represented by Jonathan E. Drill, Esq. of Stickel, Koenig, Sullivan & Drill,

LLC, 571 Pompton Avenue, Cedar Grove, New Jersey 07009.

Branchburg will serve Mr. Drill on Greenwich's behalf.

13. The Borough of Atlantic Highlands ("Atlantic Highlands") is a municipality of the State of New Jersey having its principal office at 100 First Avenue, Atlantic Highlands, New Jersey 07716. Atlantic Highlands is represented by Jeffrey R. Surenian, Esq. of Jeffrey R. Surenian & Associates, LLC, 707 Union Avenue, Suite 301, Brielle, New Jersey 08730. Branchburg will serve Mr. Surenian on Atlantic Highlands's behalf.

Persons or Entities Receiving Notice of this Action

Representatives of Relevant County, Regional or State Entities

14. COAH is an independent agency that is in, but not of, the New Jersey Department of Community Affairs ("DCA") with an office at 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08625-0813.

15. The Office of Smart Growth is a division of the DCA with an office at 101 South Broad Street, P.O. Box 204, Trenton, New Jersey 08625-0813.

16. The Office of Coastal and Land Use Planning is a division of the New Jersey Department of Environmental Protection with a mailing address at P.O. Box 5344, Trenton, New Jersey 08625.

17. Walter Lane, PP, AICP is the Director of Planning for the Somerset County Planning Board with a principal office at the Somerset County Administration Building, 20 Grove Street, P.O. Box 3000, Somerville, New Jersey 08876.

Owners of Sites That May be Included in Branchburg's HEFSP

18. Midland Adult Services, Inc. ("Midland") is a non-profit corporation with a principal office at 94 Readington Road, North Branch, New Jersey 08876. Midland is the owner of property identified as Block 7102, Lot 15 on Branchburg's tax map.

19. Advance Realty Group, LLC ("Advance Realty") is a limited liability company that has a principal place of business at 1041 U.S. Highway 202/206, Bridgewater, New Jersey 08807. Advance Realty is the owner of property identified as Block 5.11, Lot 2.01 on Branchburg's tax map.

20. Farm Acres, LLC is a limited liability company that owns the property identified as Block 17, Lot 2 on Branchburg's tax map. Farm Acres is represented by Lloyd Tubman, Archer & Greiner, P.C., Countryside Plaza North, 361 Rte. 31, Building E, Suite 1301, Flemington, New Jersey 08822. Branchburg will notice Ms. Tubman on Farm Acres' behalf.

21. Meister Associates is an entity that owns the properties identified as Block 9.01, Lot 2 and Block 9, Lot 17 on Branchburg's tax map. Meister Associates is represented by Lloyd Tubman, Archer & Greiner, P.C., Countryside Plaza North, 361 Rte.

31, Building E, Suite 1301, Flemington, New Jersey 08822.

Branchburg will notice Ms. Tubman on Meister Associates' behalf.

22. Red Shale, LLC is a limited liability company that owns the properties identified as Block 9, Lots 8, 14 and 15 on Branchburg's tax map. Red Shale, LLC is represented by Lloyd Tubman, Archer & Greiner, P.C., Countryside Plaza North, 361 Rte. 31, Building E, Suite 1301, Flemington, New Jersey 08822. Branchburg will notice Ms. Tubman on Red Shales' behalf.

23. Vollers Group, LLC is a limited liability company that owns the properties identified as Block 9, Lots 16 and 17.01 on Branchburg's tax map. Vollers Group, LLC is represented by Lloyd Tubman, Archer & Greiner, P.C., Countryside Plaza North, 361 Rte. 31, Building E, Suite 1301, Flemington, New Jersey 08822. Branchburg will notice Ms. Tubman on Vollers Group's behalf.

24. Spaden Associates, LLC is a limited liability company that owns the properties identified as Block 9, Lots 18-21 on Branchburg's tax map. Spaden Associates, LLC is represented by Lloyd Tubman, Archer & Greiner, P.C., Countryside Plaza North, 361 Rte. 31, Building E, Suite 1301, Flemington, New Jersey 08822. Branchburg will notice Ms. Tubman on Spaden Associates' behalf.

25. River Trace, LLC and American Classics, LLC (collectively "River Trace") are corporations with mailing addresses at P.O. Box 5344, North Branch, New Jersey 08876. River

Trace is the owner of property known as Block 55, Lots 9 and 10 on Branchburg's tax map. River Trace is represented by Marcia Polgar Zalewski, Esq., of 64 North Bridge Street, Somerville, New Jersey 08876. Branchburg will notice Ms. Zalewski on River Trace's behalf.

26. Som Thor Bldg. Realty Holdings, LLP is a limited liability partnership with a mailing address at 237 South St., P.O. Box 2049, Morristown, New Jersey 07962. Som Thor. Bldg. Realty Holdings owns the property identified as Block 9, Lot 5.01 on Branchburg's tax map.

27. Ansoya Enterprises of Clinton, LLC is a limited liability company with a mailing address at P.O. Box 157, Annandale, New Jersey 08801. Ansoya owns the property identified as Block 5.11, Lot 4 on Branchburg's tax map.

28. Ansoya Enterprises, Inc. is a corporation with a mailing address at P.O. Box 157, Annandale, New Jersey 08801. Ansoya Enterprises, Inc. owns the property identified as Block 6, Lot 4 on Branchburg's tax map.

29. 3361 Route 22, LLC is a limited liability company with a mailing address at P.O. Box 638, Martinsville, New Jersey 08836. 3361 Route 22, LLC owns the property identified as Block 9, Lot 10 on Branchburg's tax map.

30. Mobile Park Realty, LLC is a limited liability company with a mailing address at 1114 Route 28, Unit 23, Branchburg, New

Jersey 08876. Mobile Park Realty owns the properties identified as Block 7, Lot 2, and Block 6, Lot 4 on Branchburg's tax map.

31. Upon information and belief, Robert Henderson is an individual with an address at 299 Route 22 East, Green Brook, New Jersey 08812. Robert Henderson owns the property identified as Block 7, Lot 3 on Branchburg's tax map.

32. Guttman Karen et al & Appleman is an entity or a group of individuals with a mailing address at 200 Winston Dr. Unit 221, Cliffside Park, New Jersey 07010. Guttman Karen et al & Appleman owns the property identified as Block 10, Lot 5 on Branchburg's tax map.

33. PSE&G is a corporation with a principal place of business at 80 Park Plaza, Newark, New Jersey 07102. PSE&G is the owner of the property identified as Block 73.01, Lot 1 on Branchburg's tax map.

34. David Judelson and Kelson & Merves, CPA are an individual and entity with a mailing address at 4501 Route 9 North, P.O. Box 563, Howell, New Jersey 07731. David Judelson and Kelson & Merves, CPA are the owners of property identified as Block 70, Lot 18 on Branchburg's tax map.

35. Branchburg 202, LLC is a limited liability company with a place of business at 205 Main Street, Chatham, New Jersey 07928, attention Daniel D. Cronheim, Esquire. Branchburg 202,

LLC is the owner of property identified as Block 68.05, Lot 1 on Branchburg's tax map.

36. S/K Branchburg Trade Center Associates LLC is a limited liability company with a business address at 520 Route 22 East, P.O. Box 6872, Bridgewater, New Jersey 08807. S/K Branchburg Trace Center Associates owns the property identified as Block 58, Lot 35 on Branchburg's tax map. S/K Branchburg Trade Associates is represented by John P. Inglesino, Ingelsino, Webster, Wyciskala & Taylor, LLC, 600 Parsippany Road, Parsippany, New Jersey 07054. Branchburg will notice Mr. Inglesino on S/K Branchburg's behalf.

37. S/K Stoney Brook Associates is an entity that owns the property identified as Block 58.01, Lot 4 and Block 58, Lot 36 on Branchburg's tax map. S/K Stoney Brook Associates is represented by David Kahan, General Counsel, Kushner Real Estate Group, 520 U.S. Highway 22, P.O. Box 6872, Bridgewater, New Jersey 08807 and John P. Inglesino, Ingelsino, Webster, Wyciskala & Taylor, LLC, 600 Parsippany Road, Parsippany, New Jersey 07054. Branchburg will notice Mr. Kahan and Mr. Inglesino on S/K Stoney Brook's behalf.

Persons or Entities Who Have Requested Notice of this Action

38. Merck Sharp & Dohme Corp. ("Merck") is a corporation that has a principal place of business at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033. Merck is represented by Craig M. Gianetti of Day Pitney LLP, One Jefferson Road,

Parsippany, New Jersey 07054-2891. Branchburg will notice Mr. Gianetti on Merck's behalf.

39. France Associates, LLC is a limited liability company represented by Alexander G. Fisher, Esq., of The Law Offices of Mauro, Savo, Camerino, Grant & Schalk, 77 North Bridge Street, Somerville, New Jersey 08876. Branchburg will notice Mr. Fisher on France Associates' behalf.

40. K. Hovnanian North Jersey Acquisitions, LLC ("K. Hovnanian") is a limited liability company represented by Richard J. Hoff, Jr. of Bisgaier Hoff, LLC, 25 Chestnut Street, Suite 3, Haddonfield, New Jersey 08033. Branchburg will notice Mr. Hoff on K. Hovnanian's behalf.

41. Ken Pizzo, Sr. is an individual who is represented by Richard J. Hoff, Jr. of Bisgaier Hoff, LLC, 25 Chestnut Street, Suite 3, Haddonfield, New Jersey 08033. Branchburg will notice Mr. Hoff on Mr. Pizzo's behalf.

42. Alternatives, Inc. and ADTI Housing Corp. (collectively "ADTI") are a nonprofit social service agency and its housing development subsidiary with an office at 600 First Avenue, Raritan, New Jersey 08869.

43. CRL Investment Group, LLC is a limited liability company with an office at 62 Grove Street, Somerville, New Jersey 08876.

44. Toll Brothers, Inc. is a corporation that has a principal place of business in New Jersey at 670 Spotswood-Englishtown Road, Monroe Township, New Jersey 08831.

45. American Properties Realty, Inc. is a corporation with a place of business at 517 Route One South, Suite 2100, Iselin, New Jersey 08830.

46. Advance at Branchburg, II, LLC, is a limited liability company that is represented by Henry L. Kent-Smith of Fox Rothschild LLP, 997 Lenox Drive, Building 3, Lawrenceville, New Jersey 08648-2311. Branchburg will notice Mr. Kent-Smith on behalf of Advance at Branchburg.

47. Avalon Bay Communities, Inc. is a corporation with a place of business at 517 Route One South, Suite 5500, Iselin, New Jersey 08830.

Other Persons or Entities Receiving Notice

48. S/K Old York Road Associates, L.P. ("S/K") is a limited partnership that has a principal place of business at 81 Route 22, P.O. Box 872, Bridgewater, New Jersey 08807.

49. Upon information and belief, Alan Frank and Charter Oak 22, LLC are an individual and a limited liability company with an address at 1151 Delaware Drive, Bridgewater, New Jersey 08807.

Supreme Court Order and Decision of March 10, 2015

50. In the March 10th Decision, the Supreme Court established a procedure for New Jersey municipalities to subject themselves to judicial review for constitutional compliance with their obligations to zone in a manner that creates a realistic opportunity for producing a fair share of the regional present and prospective need for housing low- and moderate-income families.

51. The Supreme Court held that municipalities are no longer required to exhaust their administrative remedies before COAH.

52. Rather, the Supreme Court held that municipalities that believe they are constitutionally compliant or that are ready and willing to demonstrate such compliance should be able to secure declarations that their housing plans and implementing ordinances are presumptively valid in the event they later must defend against exclusionary zoning litigation.

53. The Supreme Court stayed its order for 30 days, giving the order an effective date of June 8, 2015.

54. The Supreme Court held that during the first thirty days following June 8, 2015, "the only actions that will be entertained by the courts will be declaratory judgment actions filed by any town that either (1) had achieved substantive certification from COAH under prior iterations of the Third Round Rules before they were invalidated, or (2) had 'participating'

status before COAH." 221 N.J. at 5-6. Branchburg brings this action pursuant to the language quoted in the preceding sentence.

**Branchburg Had "Participating" Status and is Authorized to File
this Action**

55. Branchburg had "participating" status before COAH because prior to the Supreme Court's invalidation of COAH's Third Round Rules, Branchburg sought Third Round Substantive Certification. COAH has placed Branchburg in the category of municipalities with "participating" status. See <http://www.nj.gov/dca/services/lps/hss/archive.html>.

56. Because Branchburg had "participating" status, the March 10th Decision authorizes Branchburg to bring this declaratory judgment action.

57. The Township Resolution authorizing the filing of this Complaint is attached as Exhibit 1 hereto.

58. The certification of affordable housing consultant Elizabeth C. McKenzie ("McKenzie Cert.") is attached as Exhibit 2 to this Complaint. Branchburg's Revised Housing Element and Fair Share Plan ("Revised Third Round Plan"), previously submitted to COAH, is attached as Exhibit B to the McKenzie Certification provided to the Court. Because of its length, the Revised Third Round Plan is not attached to the copies provided to the other parties or persons receiving notice of this action. The full Revised Third Round Plan is found at

<http://www.nj.gov/dca/services/lps/hss/archive.html> by clicking on "Municipal Participation in the Third Round" and scrolling to Number 262 on Excel spreadsheet, under "Repetition Date."

Process for Municipalities with "Participating" Status

59. In the March 10th Decision, the Supreme Court established a transitional process for participating municipalities to establish compliance.

60. The Supreme Court emphasized that the transitional process is not intended to "punish" towns that are "in a position of unfortunate uncertainty," due to the lack of Third Round Rules, but rather to establish avenues of constitutional compliance similar to those available under COAH. 221 N.J. at 23-24.

61. In the March 10th Decision, the Supreme Court held that "[i]f a town had devised a housing element and took action toward adopting ordinances in furtherance of the plan, then we would expect a reviewing court to view more favorably such actions than that of a town that merely submitted a resolution of participation and took few or perhaps no further steps toward preparation of a formal plan demonstrating its constitutional compliance." 221 N.J. at 27.

62. Branchburg did much more than merely submit a resolution of participation. Rather, Branchburg devised a housing element, and took significant steps towards demonstrating constitutional compliance. See McKenzie Cert., Exh. B.

63. On or about December 31, 2008, Branchburg submitted a Third Round Housing Element and Fair Share Plan to COAH and petitioned for Third Round certification.

64. After several entities filed objections to the plan, Branchburg attempted, both with and without COAH's assistance, to mediate the issues raised by the objectors.

65. In December, 2009, COAH issued a Report Requesting Additional Information ("RRAI") from Branchburg.

66. Branchburg was able to provide some of the information requested by COAH in the RRAI by the January 30, 2010 deadline for responding, and hoped to address the remaining issues through continued mediation.

67. By May of 2010, however, mediation was terminated by COAH at the request of the objectors.

68. Branchburg recognized that it would need to prepare and adopt a Revised Housing element and Fair Share Plan ("Revised Third Round Plan").

69. Branchburg submitted its Revised Third Round Plan to COAH on July 19, 2010.

70. On September 9, 2010, Branchburg's submission was deemed complete. <http://www.nj.gov/dca/services/lps/hss/archive.html> (Municipal Participation in the Third Round).

71. Branchburg's submission was based on COAH's then existing Third Round Rules, which used a methodology based on "growth share" to determine each municipality's affordable housing obligations.

72. On October 8, 2010, the Appellate Division invalidated the "growth share" methodology used in COAH's Third Round Rules. In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462, 488 (App. Div. 2010). The Supreme Court substantially upheld the Appellate Division's decision and held that the growth share methodology was incompatible with the Fair Housing Act, N.J.S.A., 52:27D-301 to 329. In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 215 N.J. 578 (2013). The Supreme Court directed COAH to propose regulations using a methodology similar to that used in the First and Second rounds.

73. Because COAH's Third Round Rules were invalidated, Branchburg was not able to complete the process of obtaining substantive certification.

74. Because Branchburg took formal steps towards achieving substantive certification, this Court should view favorably its request for immunity from builders' remedy lawsuits. Branchburg

should have a period of immunity of not less than five months in which to finalize its HEFSP.

75. The Supreme Court also held that "[i]n determining whether to grant such a town a period of immunity while responding to a constitutional compliance action, the court's individualized assessment should evaluate the extent of the obligation and the steps, if any, taken toward compliance with that obligation." 221 N.J. at 28. Relevant factors may include current conditions within the community, including whether a housing element has been adopted, any activity that has occurred in the town affecting need, and progress in satisfying past obligations.

76. As set forth in more detail below, Branchburg satisfied its past obligations, adopted a formal housing plan, and took steps to implement the plan.

Branchburg Satisfied its First and Second Round Obligations

77. On June 13, 1990, Branchburg was certified by COAH as to its First Round Housing Element and Fair Share Plan. See <http://www.nj.gov/dca/services/lps/hss/archive.html> (Towns Certified in the First Round, pg. 4).

78. Branchburg's fair share allocation from COAH for the first six year period (1987-1993) was 200 units, consisting of a 197 unit new construction obligation and a 3 unit rehabilitation obligation. The First Round obligation was addressed through a

100 unit Regional Contribution Agreement ("RCA") with the City of New Brunswick, the construction of 40 affordable for-sale units at a development called Cedar Brook, and the construction of 73 affordable rental units at a development called Whiton Hills.

79. On August 11, 2004, COAH granted Branchburg's petition for substantive certification of its Second Round Housing Element and Fair Share Plan. See <http://www.nj.gov/dca/services/lps/hss/archive.html> (Municipal Participation in the Second Round).

80. The Second Round addressed the cumulative need for affordable housing for the period from 1987 through 1999. See N.J.A.C. 5:93 Appendix A.

81. Branchburg's cumulative twelve year (Second Round) fair share obligation was 309 units, consisting of a 7 unit rehabilitation obligation and a 302 unit new construction obligation, part of which had been addressed in the First Round.

82. Branchburg's Second Round Housing Element and Fair Share Plan addressed this cumulative obligation with a combination of credits for its previous housing activities and a proposal to establish 4 new alternative living arrangements in cooperation with Midland, plus the creation of 4 new low-income family rental units in a building located at the Terrace Edgewood Mobile Home Park.

83. COAH determined at the time it granted substantive certification that Branchburg's Second Round plan actually resulted in 8 surplus credits over and above the prior round obligation.

84. Branchburg's plan also called for the construction of a new five-bedroom alternative living arrangement by Midland at a site on Robbins Road. COAH did not give Branchburg credit for the bedrooms on the Robbins Road facility because it was uncertain at the time as to whether and when it would be built. That building is now constructed and occupied, and Branchburg is eligible for a credit for each bedroom within that facility in addition to .25 bonus credits per bedroom, or one additional bonus credit, for a total of 6 credits from that facility.

85. Thus, Branchburg began the Third Round eligible for 14 credits over and above the credits used in satisfaction of Branchburg's prior round obligation.

Branchburg's Third Round Obligation

86. The last rules proposed by COAH addressed the Third Round obligation for the period from 1999 through 2024. 46 N.J.R. 924 (June 2, 2014).

87. As of the date of the filing of this Complaint, it is not clear how many units of affordable housing Branchburg is obliged to provide for the period of the Third Round. Neither the Statewide need, nor the regional need nor Branchburg's share

of those needs has been determined by any administrative agency or court.

88. Previously, COAH had proposed fair share obligations based on a growth share methodology that was invalidated by the Supreme Court. Under the growth share methodology, COAH determined that Branchburg's Third Round obligation was 348 units through 2018 ("Growth Share Obligation"), which Branchburg was prepared to meet through its Revised Third Round Plan. McKenzie Cert., Exh. B.

89. On June 2, 2014, COAH published in the New Jersey Register proposed substantive rules (the "Proposed Rules") addressing each municipalities' obligation for affordable housing during the Third Round. 46 N.J.R. 924 (June 2, 2014). However, at COAH's October 20, 2014 meeting, the COAH members split 3-3 on the vote and the Proposed Rules were not adopted.

90. The Proposed Rules established Branchburg's total Accrued and Prospective Fair Share Obligation for the period from 1999 to 2024 of 512 units, not counting credits for past affordable housing completions or reductions for approved inclusionary developments. 46 N.J.R. 999, 1025 (June 2, 2014).

91. The Proposed Rules were said by COAH to use a methodology similar to that used for the first and second rounds, consistent with the Supreme Court's ruling in In the Matter of Adoption of N.J.A.C. 5:96 and 5:97 of the New Jersey Council on

Affordable Housing, 215 N.J. 578 (2013). 46 N.J.R. 924-25
(June 2, 2014).

92. Branchburg does not believe that any of the Third Round numbers provided by COAH are accurate.

93. Other than the Growth Share Obligation and the Proposed Rules Obligation, neither COAH nor any other administrative agency or court has established a Third Round obligation for Branchburg.

94. The Revised Third Round Plan attached to the McKenzie Certification sets forth the basis for satisfying Branchburg's Third Round obligation if the obligation is the Growth Share obligation. McKenzie Cert., Exh. B.

95. Branchburg has authorized McKenzie and Township Planner Michael F. Sullivan, PP, AICP to prepare amendments to the Revised Third Round Plan and to undertake any other studies needed to address Branchburg's Third Round obligation, once the extent of that obligation has been determined by the judiciary. Exh. 1 [Resolution].

Branchburg's Good Faith Effort to Comply with its Third Round
Obligation

Bonus Credits

96. Branchburg entered the Third Round with 8 excess credits approved by COAH from the prior round plus 6 additional credits for the 5 bedrooms in the Robbins Road special needs housing facility. McKenzie Cert., Exh. B, pg. 3. One of these 6 credits was attributable to bonus credits for special needs housing, which bonuses the Supreme Court approved in its March 10th Decision. 221 N.J. at 32.

The Triangle Site

97. Prior to completing its Revised Third Round Plan, Branchburg had been actively working toward the acquisition of a three-lot tract of land located at the intersection of Old York Road and Route 202, Block 74, Lots 3, 3.01 and 3.02 (the "Triangle Site") for the purposes of contracting with an affordable housing provider to construct a total of 120 affordable family rental units at this location.

98. When it filed its Revised Third Round Plan, Branchburg had already acquired two of the three lots that comprise the Triangle Site and was preparing to move forward via eminent domain, if necessary, on the third lot.

99. On March 30, 2015, Branchburg acquired the third lot that comprises the Triangle Site.

100. Branchburg now owns the entire 9.48 acre site on which to build affordable housing.

101. Zoning for 100% affordable housing is an acceptable means of providing such affordable housing. See N.J.A.C. 5:93-5.3.

River Trace

102. On or about June 9, 2010, Branchburg entered into a Stipulation of Settlement ("River Trace Stipulation") that required developer River Trace to provide 11 units of affordable housing in exchange for Branchburg dismissing a lawsuit that it had filed to contest certain variances granted to River Trace.

103. Pursuant to the River Trace Stipulation, River Trace was permitted to construct two buildings. First, River Trace would construct the "South Building," which would include two units of affordable housing, and then it would construct the "North Building," which would include six units of affordable housing. River Trace also agreed to purchase three off-site units of affordable housing, and gave Branchburg a letter of credit to secure the three off-site units.

104. By March 6, 2014, River Trace had only provided the two affordable units in the South Building. It had not yet

constructed the North Building and had not purchased the three off-site units.

105. Therefore, on March 6, 2014, Branchburg sought an Order to Show Cause to enjoin River Trace from selling or transferring any units in its development unless the unit was sold as an affordable unit. See Branchburg Committee v. River Trace, et al, Docket Nos. SOM-L-1795-09 and SOM-L-124-10 (Order to Show Cause, March 6, 2014). Branchburg wanted to prevent River Trace from selling market rate units on the property while evading its obligations to provide affordable units.

106. On March 24, 2014, the Law Division, Somerset County denied the relief sought in Branchburg's Order to Show Cause and ordered Branchburg to dismiss a *lis pendens* that it had filed against River Trace's development.

107. Branchburg dismissed the *lis pendens* as ordered.

108. By letter dated April 16, 2014, Branchburg informed River Trace that it would draw down on the letter of credit that River Trace had given as security for the three off-site affordable units to provide funds for affordable housing.

109. On May 1, 2014, River Trace filed a Motion in Aid of Litigants' Rights, seeking to prevent Branchburg from drawing on the Letter of Credit. River Trace argued that COAH's dysfunction and failure to adopt Third Round Rules made it impossible for River Trace to provide the three off-site units.

110. On May 14, 2014, the Law Division, Somerset County, granted River Trace the relief that it sought and ruled that Branchburg was "prohibited from drawing on the \$420,000 Letter of Credit posted by River Trace, LLC until COAH rules are approved" Branchburg Committee, supra, Docket Nos. SOM-L-1795-09 and SOM-L-124-10.

111. The Law Division held that without Third Round Rules, "it is not only impractical, it is also legally impossible for River Trace" to provide the three off-site units.

112. Branchburg disagreed with the Law Division conclusions. On June 3, 2014, Branchburg filed a notice of appeal with the Appellate Division. The appeal was fully briefed.

113. On March 31, 2015, Branchburg entered into an Amended Stipulation with River Trace pursuant to which River Trace agreed to build 8 on-site affordable units, in addition to the two that have already been provided, and to pay \$160,000 in lieu of the eleventh unit, which Branchburg will use to further its affordable housing obligations. River Trace has paid the \$160,000 to Branchburg's Housing Trust Fund. Branchburg dismissed the appeal.

114. The Revised Stipulation will allow River Trace to complete the North Building and provide the 8 more units of affordable housing that are still owed to Branchburg. The

\$160,000 was placed in Branchburg's affordable housing trust fund, and will be used for the purchase of affordable housing.

Advance Realty/Fox Hollow III

115. Branchburg's Zoning board of Adjustment had granted a use variance to Advance Realty for an age-restricted development, referred to as "Fox Hollow II."

116. Advance Realty agreed to provide 28 units of age-restricted affordable housing, evenly split between low income and moderate income units at Fox Hollow III.

117. In 2015, the Zoning Board of Adjustment approved the conversion of the Fox Hollow II development to a non-age-restricted project, hereafter referred to as "Fox Hollow III." The Zoning Board of Adjustment also granted a use variance to modify the types of market units that would be constructed in the development. The Board of Adjustment approval is for up to 92 market units and up to 28 affordable units.

Midland Adult Services

118. Branchburg has had a successful continuing relationship with Midland, which serve adults with special needs. Midland has become an experienced provider of special needs housing.

119. By agreement with Midland, Branchburg has subsidized 5 Midland special needs group homes with a total of 17 bedrooms that were completed and occupied as part of Branchburg's Second

Round Plan. Branchburg also subsidized another five bedroom group home (identified in the Revised Third Round Housing Element and Fair Share Plan on Robbins Road). Robbins Road has been completed and is occupied.

120. Branchburg has welcomed an additional Midland 5-bedroom special needs group home known as Parsonage Hill, reflecting Branchburg's ongoing relationship with Midland.

Rehabilitation Obligation

121. Branchburg maintains an active ongoing affordable housing rehabilitation program.

122. For the First and Second Rounds, Branchburg had a seven unit rehabilitation obligation. McKenzie Cert., Exh. B, pg. 2.

123. Branchburg actually rehabilitated 16 units, more than needed to comply with its obligation. McKenzie Cert., Exh. B, pg. 3.

124. Since April 1, 2010, Branchburg has rehabilitated five additional units.

Other Activities

125. Branchburg has established an Affordable Housing Subcommittee to identify suitable sites and appropriate densities for inclusionary and/or 100 percent affordable housing development in sufficient numbers to satisfy Branchburg's Third

Round obligation. The Subcommittee has identified 11 additional sites that could produce affordable housing if needed.

Construction Based on Demonstrated Need

126. Branchburg wants to ensure that inclusionary developments are financially viable. If all inclusionary developments are built at the same time, Branchburg believes that there may not be a sufficient market for all of the market-rate and affordable units to be sold or rented at one time, potentially leading to developments in financial distress, failure to complete affordable units, and disincentives to produce affordable housing.

127. Therefore, Branchburg intends to allow inclusionary sites to be approved, constructed and sold in a controlled manner.

128. Branchburg expects to ensure the viability of its affordable housing plans set forth in its HEFSP by avoiding having multiple developments offered for sale at the same time.

Conclusion

129. In the March 10th Decision, the Supreme Court held that the purpose of the transitional process is to ensure "prompt voluntary compliance" from municipalities with respect to Third Round obligations. It is only "[i]f that goal cannot be

accomplished, with good faith effort and reasonable speed, and the town is determined to be constitutionally noncompliant, then the court may authorize exclusionary zoning actions seeking a builder's remedy ...” 221 N.J. at 33.

130. Branchburg made a good faith effort to obtain Third Round certification and to be constitutionally compliant. Therefore, it should be granted a period of immunity of not less than five months to finalize its HEFSP.

131. Based on the foregoing, Branchburg's proposed and amended HEFSP will provide a realistic opportunity for producing a fair share of the regional present and prospective need for housing low- and moderate-income families.

132. Therefore, the Court should grant Branchburg the relief sought in this action.

WHEREFORE, Branchburg respectfully requests the Court to declare and adjudge the controversy as follows:

A. Grant Branchburg a period of immunity of at least five months from exclusionary zoning litigation in order for it to finalize its HEFSP;

B. Declare that the HEFSP and its implementing ordinances are presumptively valid in the event that Branchburg must later defend itself against exclusionary zoning litigation during the period for which the Third Round Rules would apply;

C. Grant Branchburg a judgment of compliance and repose; and

D. Grant such other and further relief that this Court deems just and equitable.

WOOLSON SUTPHEN ANDERSON, P.C.
Attorneys for Plaintiff,
Township of Branchburg

Date: 6-30-15

By: 
Mark S. Anderson

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Plaintiff hereby designates Mark S. Anderson of the law firm of Woolson Sutphen Anderson, P.C., as trial counsel for the within matter.

WOOLSON SUTPHEN ANDERSON, P.C.
Attorneys for Plaintiff,
Township of Branchburg

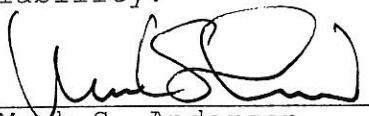
Date: 6-30-15

By: 
Mark S. Anderson



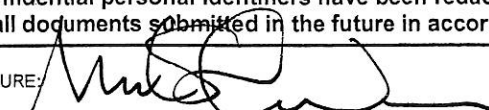
R. 4:5-1 Certification

I certify in accordance with R. 4:5-1 that to the best of my knowledge and belief the matter in controversy in this action is not the subject of any other action pending in any other New Jersey court. There are no pending arbitration proceedings. No other action or arbitration proceedings are contemplated. No non-party is known who would be subject to inclusion or joinder in this case because of potential liability.

Date: 6-30-15


Mark S. Anderson

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:	
	ATTORNEY / PRO SE NAME Mark S. Anderson		TELEPHONE NUMBER (908) 526-4050	COUNTY OF VENUE Somerset
	FIRM NAME (if applicable) Woolson Sutphen Anderson, P.C.		DOCKET NUMBER (when available)	
	OFFICE ADDRESS 11 E. Cliff Street Somerville, NJ 08876		DOCUMENT TYPE Complaint	
			JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Township of Branchburg, Plaintiff		CAPTION IN THE MATTER OF THE TOWNSHIP OF BRANCHBURG'S HOUSING ELEMENT AND FAIR SHARE PLAN		
CASE TYPE NUMBER (See reverse side for listing) 303	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <div style="text-align: right;"><input checked="" type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN</div>		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION This is a Declaratory Judgment case, filed consistent with Supreme Court opinion and order of March 10, 2015 in "In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing" M-392-14.				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETA/ARELIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 285 STRYKER TRIDENT HIP IMPLANTS | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 286 LEVAQUIN | 297 MIRENA CONTRACEPTIVE DEVICE |
| 287 YAZ/YASMIN/OCELLA | 601 ASBESTOS |
| 288 PRUDENTIAL TORT LITIGATION | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

EXHIBIT "1"

RESOLUTION

NO. 2015-182

ADOPTED: JUNE 22, 2015

TOWNSHIP OF BRANCBURG COUNTY OF SOMERSET, STATE OF NEW JERSEY

RESOLUTION AUTHORIZING THE FILING OF A DECLARATORY JUDGMENT ACTION SEEKING TEMPORARY IMMUNITY TO ALLOW THE TOWNSHIP TO FURTHER REVISE ITS ADOPTED REVISED THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN AND OBTAIN A JUDGMENT OF COMPLIANCE AND REPOSE

WHEREAS, the Planning Board of the Township of Branchburg did, on July 13, 2010, adopt a Revised Third Round Housing Element and Fair Share Plan consistent with the Rules of the New Jersey Council on Affordable Housing ("COAH") at N.J.A.C. 5:97-1, *et seq.*, and in response to comments received from COAH staff and from objectors to the 2008 Third Round Housing Element and Fair Share Plan; and

WHEREAS, the Township Committee did, on July 15, 2010, endorse the Revised Third Round Housing Element and Fair Share Plan and submit it to COAH along with a Resolution re-petitioning COAH for substantive certification of the Revised Third Round Housing Element and Fair Share Plan; and

WHEREAS, COAH's Third Round Rules (at N.J.A.C. 5:96-1, *et seq.* and 5:97-1, *et seq.*) were subsequently invalidated by the Appellate Division in October of 2010, which invalidation was later affirmed by the New Jersey Supreme Court; and

WHEREAS, as a result of such invalidation, COAH never reviewed or certified Branchburg's Revised Third Round Housing Element and Fair Share Plan; and

WHEREAS, because of COAH's failure to adopt new, valid Third Round Rules, the New Jersey Supreme Court did, on March 10, 2015, issue an order eliminating the COAH administrative processes authorized by the Fair Housing Act (N.J.S.A. 52:27D-301, *et seq.*), with an effective date of June 8, 2015; and

WHEREAS, the New Jersey Supreme Court provided in said order that municipalities which had participated in the COAH process by submitting their adopted Third Round Housing Elements and Fair Share Plans to COAH along with petitions for substantive certification but had not yet received substantive certification from COAH would be permitted a period of thirty days, beginning on June 8, 2015, within which to file declaratory judgment actions in Superior Court in order to obtain the judicial equivalent of the substantive certifications that they had applied for under N.J.S.A. 52:27D-313, but had not yet received; and

WHEREAS, Branchburg Township is one of the municipalities that petitioned COAH for substantive certification of its Third Round Housing Element and Fair Share Plan but had not yet received substantive certification at the time COAH's 2008 Rules were invalidated; and

WHEREAS, the Township fulfilled all of its 302 unit prior round affordable housing obligation pursuant to the prior round substantive certification granted by COAH on August 11, 2004, providing a total of 310 units and credits, which yields a surplus of eight affordable housing units to be carried into the third round; and

WHEREAS, the Township has continued to protect and administer its existing inventory of affordable housing and has implemented a number of the proposals contained in the Revised Third Round Housing Element and Fair Share Plan in addition to capturing additional affordable housing opportunities as they have become available, including:

1. Assuring the continuation of controls on 40 affordable for sale units at Cedar Brook, including by requiring a new deed restriction at the time of each transfer of ownership; and
2. Approving the conversion of a 50 unit age-restricted development (River Trace) to a non-age-restricted development with a 20 percent set-aside to yield what will now be 10 on-site affordable units, two of which have already been constructed and occupied, and one payment of \$160,000 in lieu of the construction of an 11th unit; and
3. Approving an age-restricted inclusionary development (Advance/Fox Hollow II) and then ultimately approving not only the conversion of that development to a non-age-restricted project but also most recently a use variance (referred to as Advance/Fox Hollow III) to modify the types of market units that would be constructed in that development while still providing up to 28 affordable units; and
4. Welcoming an additional 5-bedroom special needs group home known as Parsonage Hill provided by Midland Adult Services (in addition to the 5 bedroom Robbins Road group home identified in the Revised Third Round Housing Element and Fair Share Plan), reflecting Branchburg's ongoing relationship with Midland Adult Services and the Midland School, which is located in Branchburg Township; and
5. Acquiring the third of the three lots that form the "Triangle Site" referred to in the Third Round Housing Element and Fair Share Plan, so that the Township is now ready to proceed with a municipally sponsored 100 percent affordable housing project consisting of 120 units on that site; and

6. Establishing an Affordable Housing Subcommittee to identify suitable sites and appropriate densities for inclusionary and/or 100 percent affordable housing development in sufficient numbers to satisfy whatever new third round affordable housing obligation is assigned to the Township by the judiciary; and

7. Maintaining an active ongoing housing rehabilitation program; and

WHEREAS, the Township recognizes that, under the rules proposed by COAH as N.J.A.C. 5:99, which rules would have replaced N.J.A.C. 5:97, had they been adopted, the Township's third round fair share obligation would have included a seven unit Rehabilitation Share, a 302 unit Prior Round Obligation for the period from 1987-1999, and a total Accrued and Prospective Fair Share Obligation for the period from 1999 to 2024 of 512 units, prior to deducting any credits for past affordable housing completions or approved inclusionary developments; and

WHEREAS, the Township acknowledges that it is now up to the judiciary to determine statewide and regional affordable housing needs and to allocate such need to the municipalities in each housing region, which may result in a higher or lower obligation than that in the proposed but unadopted N.J.A.C. 5:99; and

WHEREAS, the Township requires time to revise its previously Revised Third Round Housing Element and Fair Share Plan to eliminate all references to the growth share methodology previously adopted by COAH and to address whatever obligation may be assigned to it by the judiciary;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Branchburg, County of Somerset, State of New Jersey, as follows:

1. The Township Committee hereby authorizes the firm of Woolson Sutphen Anderson, P.C. Township Attorneys, to prepare and file a Declaratory Judgment action in the Superior Court of New Jersey, Somerset County, to be accompanied by such exhibits and certifications as deemed necessary and appropriate for the purposes of obtaining temporary immunity from all exclusionary zoning lawsuits so that the Township can revise and adopt an amended Third Round Housing Element and Fair Share Plan and submit it to the Superior Court for review and approval as a basis for a Judgment of Compliance and Repose.

2. The Township Committee hereby authorizes Elizabeth C. McKenzie, AICP, PP, Township Affordable Housing Consultant, and Michael F. Sullivan, PP, AICP, Township Planner, to prepare amendments to the adopted Revised Third Round Housing Element and Fair Share Plan, and to undertake any other studies needed to address the Township's third round fair share obligation once the extent of that obligation has been determined by the judiciary, which amendments shall be completed within the period of temporary immunity granted by the Superior Court leaving sufficient time for the revised Third Round Housing Element and Fair Share Plan to be adopted and submitted to the Superior Court by the established deadline.

3. The Township Committee hereby authorizes payment of \$2,000, the Township's pro rata share of the costs with other participating municipalities for retaining Robert Burchell,

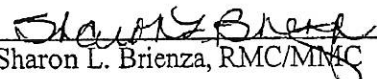
PhD, to calculate statewide fair share obligations and assign them to municipalities.

4. The Township Committee does hereby authorize submission to the Superior Court of a copy of this Resolution, along with a copy of the adopted Revised Third Round Housing Element and Fair Share Plan and any other materials required by the Superior Court in connection with the Declaratory Judgment action and the Superior Court's review of the Township's Plan.

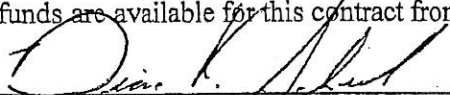
5. This Resolution shall take effect immediately.

CERTIFICATION

I, Sharon Brienza, RMC, Clerk of the Township of Branchburg, hereby certify the foregoing to be a true copy of a resolution adopted by the Township Committee of the Township of Branchburg at a duly convened meeting held on the 22nd day of June, 2015.

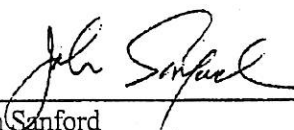

Sharon L. Brienza, RMC/MMC
Township Clerk

I, Diane K. Schubach, Chief Financial Officer of the Township of Branchburg, do hereby certify funds are available for this contract from: 5-01-20-703-099.


Diane K. Schubach, Chief Financial Officer

Attest:


Sharon L. Brienza, RMC/MMC
Township Clerk


John Sanford
Mayor

ROLL CALL VOTE				
COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
SANFORD	✓			
REES	✓			
YOUNG		✓		
SCHWORN		✓		
PETRELLI	✓			

EXHIBIT "2"

Woolson Sutphen Anderson

A Professional Corporation

Mark S. Anderson, 261051972

11 East Cliff Street

Somerville, New Jersey 08876

908 526-4050

Attorneys for: Township of Branchburg

IN THE MATTER OF THE TOWNSHIP
OF BRANCHBURG HOUSING ELEMENT
AND FAIR SHARE PLAN

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: SOMERSET COUNTY
: DOCKET NUMBER:

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Civil Action

CERTIFICATION OF
ELIZABETH C. MCKENZIE

I, Elizabeth C. McKenzie, hereby certify as follows:

1. I am a licensed professional planner in the State of New Jersey, and I am a member of the American Institute of Certified Planners. I make this certification in support of the Complaint of the Township of Branchburg ("Branchburg Township" or the "Township") for Declaratory Judgment.

2. I have been the president of a planning consulting firm, Elizabeth C. McKenzie, P.P., P.A., for over 35 years. A copy of my curriculum vitae outlining the details of my educational and professional background and a partial list of

clients is attached as Exhibit A to this Certification.

3. During the course of my experience as a professional planner, I have prepared numerous municipal master plans, including, in particular, first, second and third round housing elements and fair share plans for submission to and approval by the courts and the New Jersey Council on Affordable Housing (COAH). I have also been a court-appointed Special Master in two dozen different Mt. Laurel II lawsuits, including several lawsuits that originated in the mid-1980's immediately following the Mt. Laurel II decision but before the establishment of COAH, and also including several lawsuits filed in the last few years that involved both the cumulative prior round and the, now invalidated, third round municipal affordable housing obligations established by COAH.

4. I am, therefore, well-acquainted with the issues associated with the municipal obligation to provide for a fair share of regional affordable housing needs.

5. I have been the affordable housing consultant to Branchburg Township since 1998. In this capacity, I prepared Branchburg Township's Second Round Housing Element and Fair Share Plan, which Plan ultimately received substantive certification from COAH on August 11, 2004. I also prepared three iterations of Branchburg's Third Round Housing Element and Fair Share Plan, all of which were duly adopted and endorsed and submitted to COAH for substantive certification. Attached to this Certification as Exhibit B is Branchburg's Revised Third Round Housing Element and

Fair Share Plan that was submitted to COAH in July of 2010, shortly before COAH's 2008 Third Round Rules were invalidated by the Appellate Division.

6. I am well acquainted with Branchburg Township and its continuing efforts and ongoing progress in complying with its affordable housing fair share obligations.

7. As the Court will note in its review of Branchburg Township's Revised Third Round Housing Element and Fair Share Plan, the Township fully satisfied its entire 302 unit prior round obligation, with a surplus of eight extra affordable housing units. In addition, the Township's Revised Third Round Housing Element and Fair Share Plan fully addressed the Township's entire Third Round fair share obligation as calculated by COAH in 2008.

8. Although certain aspects of the Revised Third Round Housing Element and Fair Share Plan have yet to be implemented, the Township has continued to protect and administer its existing inventory of affordable housing and has implemented a number of the proposals contained in the Revised Third Round Housing Element and Fair Share Plan in addition to capturing additional affordable housing opportunities as they have become available, including:

a. Extending controls on 40 affordable for sale units at Cedar Brook by requiring a new deed restriction at the time of each transfer of ownership and monitoring the expiration of controls on each unit; and

b. Approving the conversion of a 50 unit age-restricted development (River Trace) to a non-age-restricted development with a 20 percent set-aside to yield what will now be 10 on-site affordable units, two of which have already been constructed and occupied, and one payment of \$160,000 in lieu of the construction of an 11th unit; and

c. Approving an age-restricted inclusionary development (Advance/Fox Hollow II) and then ultimately approving not only the conversion of that development to a non-age-restricted project but also most recently a use variance (referred to as Advance/Fox Hollow III) to modify the types of market units that would be constructed in that development while still providing up to 28 affordable units; and

d. Welcoming an additional 5-bedroom special needs group home known as Parsonage Hill provided by Midland Adult Services (in addition to the 5-bedroom Robbins Road group home identified in the Revised Third Round Housing Element and Fair Share Plan) reflecting Branchburg's ongoing relationship with Midland Adult Services and the Midland School (which is located in Branchburg Township); and

e. Acquiring the third of the three lots that comprise the "Triangle Site" referred to in the Third Round Housing Element and Fair Share Plan, so that the Township is now ready to proceed with a municipally-sponsored 100 percent affordable housing project consisting of 120 units on that site; and

f. Maintaining an active ongoing housing rehabilitation program.

9. The Township has recently established an Affordable Housing Subcommittee to identify potentially suitable sites and appropriate density ranges for inclusionary and/or 100 percent affordable housing development in sufficient numbers to satisfy whatever new third round affordable housing obligation is assigned to the Township by the judiciary. The Affordable Housing Subcommittee has identified 11 possible sites *in addition to those already included in the Revised Third Round Housing Element and Fair Share Plan*. These 11 additional sites could potentially produce between 290 and 500 (or more) additional units of affordable housing (over and above those expected to be yielded from the sites already included in the 2010 Revised Third Round Housing Element and Fair Share Plan) depending upon the densities assigned to those sites and the necessity for rezoning them based upon the judicial determination of the extent of the Township's Third round fair share obligation. In addition, six other potential sites are still being reviewed by the Affordable Housing Subcommittee; these six sites, if selected, could potentially yield another 250 to 530 affordable units, again depending on density, tenure and the necessity for including them in the Plan.

10. The Township recognizes that under the Rules proposed by COAH as N.J.A.C. 5:99, which Rules would have replaced N.J.A.C. 5:97, had they been adopted, the Township's third round

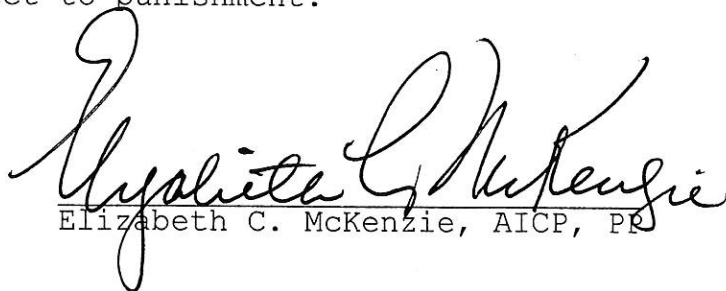
fair share obligation would have included a seven unit Rehabilitation Share, a 302 unit Prior Round Obligation for the period from 1987-1999, and a total Accrued and Prospective Fair Share Obligation for the period from 1999 to 2024 of 512 units, not counting credits for past affordable housing completions or reductions for approved inclusionary developments.

11. The Township acknowledges that the Supreme Court, in its March 10, 2015 decision, In re N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, delegated to the judiciary the determination of the statewide and regional needs for affordable housing and the allocation of fair share obligations to municipalities within each housing region, and that this process may result in Branchburg's having a higher or lower obligation than presented in the proposed but unadopted N.J.A.C. 5:99.

12. The Township has authorized participation in a contract with the Bloustein School of Rutgers University for Robert Burchell, PhD, to calculate statewide and regional affordable housing needs and to develop proposed municipal fair share allocations, but the Township will need time to amend its Revised Third Round Housing Element and Fair Share Plan to eliminate all references to the growth share methodology previously directed by COAH and to develop a plan using some or all of the sites identified by the Affordable Housing Subcommittee that address Branchburg's judicially determined fair share obligation. This

is the purpose of the Township's Complaint for a Declaratory Judgment and request for temporary immunity.

I, Elizabeth C. McKenzie, hereby certify that the foregoing statements are true to the best of my knowledge and belief. I understand that if any of the foregoing statements is found to be willfully false, I am subject to punishment.



Elizabeth C. McKenzie, AICP, PR

Dated: June 30, 2015

EXHIBIT A
CURRICULUM VITAE OF ELIZABETH C. MCKENZIE, AICP, PP

ELIZABETH C. MCKENZIE, P.P., P.A.

COMMUNITY PLANNING AND DEVELOPMENT

9 MAIN STREET

FLEMINGTON, NEW JERSEY 08822

TELEPHONE (908) 782-5564

TELEFAX (908) 782-4056

ecmcke@embarqmail.com

CURRICULUM VITAE

ELIZABETH C. MCKENZIE, AICP, PP

SERVICES

Professional planning consultant with expertise in all phases of land use planning, including the preparation of master plans and master plan elements, development ordinances, environmental and community impact statements, special studies and reports for public and private clients, subdivision and site plan reviews, and testimony before planning boards and zoning boards of adjustment and in court.

Experienced in over two hundred (200) different municipalities in the State of New Jersey.

Licensed as a professional planner in the State of New Jersey (#2294). Certified by the American Institute of Certified Planners.

PROFESSIONAL EXPERIENCE

Elizabeth C. McKenzie, P.P., P.A. President of community planning and development consulting firm established February, 1980, incorporated November, 1985.

Rutgers, the State University, School of Urban Planning and Policy Development, as Visiting Lecturer, 1981-1983. Teaching principles of land use planning to undergraduates in the engineering and planning programs.

Alvin E. Gershen Associates (formerly Gershen and Coppola Associates), as Planner-in-Charge, 1978-1980. Responsibilities included all phases of community planning: preparation of master plans and master plan elements, land development ordinances, capital improvement programs, site plan and subdivision reviews and special studies

ELIZABETH C. MCKENZIE, P.P., P.A.

for over a dozen municipal clients; special planning studies and development proposals for private clients.

East Brunswick Township, first as an intern and later as assistant planner, 1977-1978. Responsibilities included designing and implementing a comprehensive retail market analysis as well as a survey of major industrial sectors; developing, administering and evaluating the results of a consumer questionnaire; evaluating demographic data; and analyzing environmental constraints, zoning and impacts of development proposals.

EDUCATION

M.C.R.P. Rutgers University, New Brunswick, New Jersey. The Graduate School, Department of Urban Planning and Policy Development. Awarded January, 1978.

B.A. Briarcliff College, Briarcliff Manor, New York.
Major: English Literature. Awarded August, 1968.

AWARDS AND HONORS

Fellow, Eagleton Institute of Politics, 1976-1977.

Bloustein School Alumnus of the Year, 1999.

NJAPA Budd Chavooshian Award for Outstanding Professional Planner, 2011.

OTHER

Raritan Township Planning Board, member and vice-chairman, 1974-1978. Chaired site plan and subdivision review committee, technical coordinating committee, and master plan committee. Collaborated in preparation of numerous ordinances and ordinance amendments, including soil erosion and sediment control and flood plain and stormwater management ordinances.

Raritan Township Environmental Commission, member and liaison with Planning Board, 1975-1978.

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New Jersey Federation of Planning Officials, served on Local Response Committee, 1976-1978. Collaborated in preparation of several special reports, including housing needs of the elderly, hiring a professional consultant, the Municipal Land Use Law.

South Branch Watershed Association, trustee, 1973-1978. Environmental action group.

Citizens' Housing Corporation, Raritan Township, New Jersey, trustee and officer, 1976-1978. Non-profit housing sponsor.

North County Conservancy, trustee 1992-1994. Non-profit affordable housing consultant.

CURRENT PROFESSIONAL AFFILIATIONS

American Institute of Certified Planners, member.

American Planning Association, member.

New Jersey Association of Consulting Planners, member.

New Jersey Planning Officials, Board of Counselors.

South Branch Watershed Association, member.

Society of Court-Appointed Masters, charter member.

New Jersey Site Improvement Advisory Board, member.

ELIZABETH C. MCKENZIE, P.P., P.A.

PAST AND CURRENT MUNICIPAL CLIENTS

The Borough of Little Ferry, Bergen County
The Borough of Ramsey, Bergen County
The Borough of Saddle River, Bergen County
The Township of Wyckoff, Bergen County
The Borough of Haddonfield, Camden County
The Township of Cherry Hill, Camden County
The Township of Bloomfield, Essex County
The Township of Millburn, Essex County
The Township of Verona, Essex County
The Township of Alexandria, Hunterdon County
The Borough of Califon, Hunterdon County
The Town of Clinton, Hunterdon County
The Township of Delaware, Hunterdon County
The Township of East Amwell, Hunterdon County
The Borough of Flemington, Hunterdon County
The Borough of Frenchtown, Hunterdon County
The Borough of Glen Gardner, Hunterdon County
The Township of Holland, Hunterdon County
The Township of Princeton, Mercer County
The Township of Washington, Mercer County
The Township of Wall, Monmouth County
The Borough of Chatham, Morris County
The Borough of Lincoln Park, Morris County
The Borough of Bloomingdale, Passaic County
The Township of Branchburg, Somerset County
The Borough of Manville, Somerset County

PAST AND CURRENT MUNICIPAL CLIENTS

(continued)

The Township of Fredon, Sussex County
The Township of Green, Sussex County
The Borough of Andover, Sussex County
The Borough of New Providence, Union County
The Township of Springfield, Union County
The Township of Greenwich, Warren County
The Township of Harmony, Warren County
The Township of Hope, Warren County
The Township of Lopatcong, Warren County
The Township of Pohatcong, Warren County
Borough of Ramsey Zoning Board of Adjustment, Bergen County
Bloomfield Township Zoning Board of Adjustment, Essex County
Millburn Township Zoning Board of Adjustment, Essex County
City of Lambertville Zoning Board of Adjustment, Hunterdon County
Township of Holmdel Planning Board and Environmental Commission, Monmouth County
Middletown Township Zoning Board of Adjustment, Monmouth County
Borough of Lincoln Park Zoning Board of Adjustment, Morris County
Franklin Township Zoning Board of Adjustment, Somerset County
Berkeley Heights Township Zoning Board of Adjustment, Union County
Flemington-Raritan Regional School District, Hunterdon County
Warren Hills Regional School District, Warren County

ELIZABETH C. MCKENZIE, P.P., P.A.

PAST AND CURRENT MUNICIPAL CLIENTS

(continued)

With Frost Associates:

Borough of Metuchen, Middlesex County

Township of Bernards, Somerset County

With C. Douglas Cherry and Associates:

Township of Mansfield, Warren County

With Charles C. Nathanson and Associates:

Township of Ewing, Mercer County

With Garmen Associates:

Borough of Fair Lawn, Bergen County

With Mace Consulting Engineers:

Borough of Alpha, Warren County

With PMK Associates/Neglia Engineering:

Borough of Little Ferry, Bergen County

ELIZABETH C. MCKENZIE, P.P., P.A.

**APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY**

ATLANTIC COUNTY

Township of Galloway

BERGEN COUNTY

Borough of Alpine
City of Englewood
Borough of Fort Lee
Borough of Franklin Lakes
City of Hackensack
Borough of Hillsdale
Borough of Little Ferry
Township of Lyndhurst
Township of Mahwah
Borough of Montvale
Borough of Oakland
Borough of Paramus
Borough of Ramsey
Township of River Vale
Township of Rochelle Park
Borough of Rutherford
Borough of Saddle River
Township of Teaneck
Borough of Tenaflly
Borough of Upper Saddle River
Borough of Waldwick
Township of Wyckoff

BURLINGTON COUNTY

Township of Bordentown
Township of Florence
Township of Hainesport
Township of Pemberton

ELIZABETH C. MCKENZIE, P.P., P.A.

APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(continued)

ESSEX COUNTY

Borough of Caldwell
Township of Cedar Grove
Township of Fairfield
Borough of Glen Ridge
Township of Livingston
Township of Maplewood
Township of Millburn
Township of Montclair
City of Newark
Township of North Caldwell
Town of Nutley
Borough of Roseland
Township of South Orange Village
Township of Borough of Verona
Township of West Orange

GLOUCESTER COUNTY

Township of Deptford

HUDSON COUNTY

City of Hoboken
City of Jersey City

HUNTERDON COUNTY

Township of Alexandria
Township of Bethlehem
Borough of Bloomsbury
Town of Clinton
Township of Clinton
Township of Delaware
Township of East Amwell

ELIZABETH C. MCKENZIE, P.P., P.A.

**APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(continued)**

HUNTERDON COUNTY (continued)

Borough of Flemington
Township of Franklin
Borough of Frenchtown
Borough of Hampton
Borough of High Bridge
Township of Kingwood
City of Lambertville
Borough of Lebanon
Township of Lebanon
Township of Raritan
Township of Readington
Borough of Stockton
Township of Union
Township of West Amwell

MERCER COUNTY

Township of East Windsor
Township of Ewing
Township of Hamilton
Borough of Hightstown
Township of Hopewell
Township of Lawrence
Borough of Pennington
Borough of Princeton
Township of Princeton
City of Trenton
Township of Washington
Township of West Windsor

ELIZABETH C. MCKENZIE, P.P., P.A.

**APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY**
(continued)

MIDDLESEX COUNTY

Township of Cranbury
Borough of Dunellen
Township of East Brunswick
Township of Edison
Borough of Highland Park
City of New Brunswick
Township of North Brunswick
Township of Old Bridge
Township of Piscataway
Township of Plainsboro
Township of South Brunswick
Borough of South Plainfield
Township of Woodbridge

MONMOUTH COUNTY

Township of Colts Neck
Borough of Eatontown
Township of Freehold
Township of Holmdel
Township of Howell
Borough of Little Silver
Township of Manalapan
Township of Marlboro
Township of Middletown
Township of Millstone
Township of Ocean
Borough of Red Bank
Borough of Rumson
Borough of Sea Girt
Borough of Spring Lake Heights
Borough of Tinton Falls
Township of Wall

ELIZABETH C. MCKENZIE, P.P., P.A.

APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(continued)

MORRIS COUNTY

Township of Boonton
Borough of Butler
Borough of Chatham
Township of Chatham
Borough of Chester
Township of Chester
Township of Denville
Town of Dover
Borough of Florham Park
Township of Hanover
Township of Harding
Township of Jefferson
Borough of Kinnelon
Township of Long Hill (formerly Township of Passaic)
Borough of Madison
Borough of Mendham
Township of Montville
Township of Morris
Borough of Morris Plains
Town of Morristown
Borough of Mount Arlington
Township of Mount Olive
Borough of Mountain Lakes
Borough of Netcong
Township of Parsippany-Troy Hills
Township of Randolph
Borough of Riverdale
Township of Rockaway
Township of Roxbury
Township of Washington

ELIZABETH C. MCKENZIE, P.P., P.A.

APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(continued)

OCEAN COUNTY

Borough of Bay Head
Township of Little Egg Harbor
Borough of Point Pleasant
Borough of Point Pleasant Beach
Borough of Seaside Park
Township of Stafford

PASSAIC COUNTY

City of Clifton
Township of Little Falls
Township of West Milford
Borough of West Paterson

SOMERSET COUNTY

Township of Bedminster
Township of Bernards
Borough of Bernardsville
Borough of Bound Brook
Township of Branchburg
Township of Bridgewater
Borough of Far Hills
Township of Franklin
Township of Hillsborough
Borough of Millstone
Township of Montgomery
Borough of North Plainfield
Borough of Peapack and Gladstone
Township of Warren
Borough of Watchung

ELIZABETH C. MCKENZIE, P.P., P.A.

APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(continued)

SUSSEX COUNTY

Borough of Andover
Township of Andover
Borough of Hopatcong
Town of Newton
Township of Sparta
Borough of Stanhope
Township of Stillwater
Township of Vernon

UNION COUNTY

Township of Berkeley Heights
Township of Cranford
Borough of Fanwood
Township of Hillside
City of Linden
Borough of Mountainside
Borough of New Providence
City of Plainfield
Township of Scotch Plains
City of Summit
Township of Union
Town of Westfield

WARREN COUNTY

Township of Blairstown
Township of Franklin
Township of Frelinghuysen
Township of Knowlton
Township of Lopatcong
Township of Mansfield
Township of Oxford
Town of Phillipsburg
Township of Pohatcong
Township of Washington
Township of White

ELIZABETH C. MCKENZIE, P.P., P.A.

**MASTER PLANS, MASTER PLAN ELEMENTS, AND PERIODIC REEXAMINATION
REPORTS COMPLETED**

Borough of Chatham, Morris County
for Gershen and Coppola Associates

Township of Lower, Cape May County
for Gershen and Coppola Associates

Township of Washington, Mercer County
for Gershen and Coppola Associates

Township of Springfield, Union County
for Gershen and Coppola Associates

Borough of Spring Lake, Monmouth County
for Richard Thomas Coppola, P.P.

Township of Mantua, Gloucester County
for Richard Thomas Coppola, P.P.

Township of Lopatcong, Warren County

Township of Bernards, Somerset County
for Frost Associates

Borough of Metuchen, Middlesex County
for Frost Associates

Township of Alexandria, Hunterdon County

Township of Pohatcong, Warren County

Town of Clinton, Hunterdon County

Township of Holland, Hunterdon County

Township of Harmony, Warren County

Township of Greenwich, Warren County

Borough of Flemington, Hunterdon County

ELIZABETH C. MCKENZIE, P.P., P.A.

**MASTER PLANS, MASTER PLAN ELEMENTS, AND PERIODIC REEXAMINATION
REPORTS COMPLETED
(continued)**

Borough of New Providence, Union County

Township of Springfield, Union County

Township of Green, Sussex County

Township of Fredon, Sussex County

Borough of Califon, Hunterdon County

Township of East Amwell, Hunterdon County

Township of Princeton, Mercer County

Borough of Saddle River, Bergen County

Borough of Alpha, Warren County
with Mace Consulting Engineers

Township of Wyckoff, Bergen County

Borough of Frenchtown, Hunterdon County

Borough of Manville, Somerset County

Township of Branchburg, Somerset County

Borough of Lincoln Park, Morris County

Borough of Haddonfield, Camden County

Borough of Glen Gardner, Hunterdon County

Borough of Little Ferry, Bergen County

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT APPEARANCES

Middlesex County Superior Court (Hampton Borough - Mount Laurel II)

Middlesex County Superior Court (Town of Clinton - Mount Laurel II)

Middlesex County Superior Court (Edison Township)

Middlesex County Superior Court (South Brunswick Township)

Union County Superior Court (Springfield Township)

Camden County Superior Court (Haddon Township)

Mercer County Superior Court (Washington Township)

Essex County Superior Court (Livingston Township)

Essex County Superior Court (Township of Borough of Verona)

Bergen County Superior Court (Borough of Fort Lee)

Bergen County Superior Court (Borough of Little Ferry - Mount Laurel II)

Bergen County Superior Court (Mahwah Township - Mount Laurel II remand)

Bergen County Superior Court (Oakland Borough)

Bergen County Superior Court (Ramsey Borough)

Bergen County Superior Court (Saddle River Borough - Mount Laurel II)

Bergen County Superior Court (Waldwick Borough)

Passaic County Superior Court (City of Clifton)

Passaic County Superior Court (Borough of West Paterson)

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT APPEARANCES

(continued)

Passaic County Superior Court (Borough of Bloomingdale -
Mount Laurel II)

Sussex County Superior Court (Stillwater Township)

Somerset County Superior Court (Hope Township - from
Warren County)

Somerset County Superior Court (Borough of Peapack and Gladstone)

Somerset County Superior Court (Borough of High Bridge - from
Hunterdon County)

Morris County Superior Court (Roxbury Township)

Morris County Superior Court (Mendham Borough)

Morris County Superior Court (Butler Borough)

Morris County Superior Court (Fredon Township -
from Sussex County)

Morris County Superior Court (NJDOT v. Goldmeier (N.J.) Ltd. -
Condemnation in Byram Township and Hopatcong Borough,
Sussex County)

Administrative Law Court (Scotch Plains)

Administrative Law Court (Roseland Borough)

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT-APPOINTED MASTER

Manalapan Township Mount Laurel II Litigation (Round One)
Green Brook Township Mount Laurel II Litigation (Round One)
Washington Township (Mercer) Mount Laurel II Litigation (Round One)
Aberdeen Township Mount Laurel II Litigation (Round One)
Raritan Borough Mount Laurel II Litigation (Round One)
South Plainfield Borough Mount Laurel II Litigation (Round Two)
Woodbridge Township Mount Laurel II Litigation (Round Two)
Cranbury Township Litigation (Hagerty)
Hillsborough Township Mount Laurel II Litigation (Round Two)
Carteret Borough Mount Laurel II Compliance Review (Round Two)
Demarest Borough Mount Laurel II Litigation (Round Two)
Edison Township Mount Laurel II Litigation (Round Two)
Jamesburg Borough Litigation (SERV)
Eastampton Township Mount Laurel II Litigation (Round Two)
West Windsor Township Mount Laurel II Litigation (Round Two)
Englishtown Borough Mount Laurel II Litigation (Round Two)
Green Brook Township Litigation (Renda)
Roosevelt Borough Mount Laurel II Litigation (Round Two)
Essex Fells Borough Mount Laurel II Litigation (Round Two)

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT-APPOINTED MASTER

(continued)

Freehold Township Litigation (Hovbilt)

Farmingdale Borough Mount Laurel II Litigation (Round Two)

Logan Township Mount Laurel II Litigation (Round Two/Three)

Matawan Borough Mount Laurel II Litigation (Round Two/Three)

Lebanon Borough Mount Laurel II Litigation (Round Two/Three)

Willingboro Township Mount Laurel II Litigation (Round Two/Three)

West Long Branch Mount Laurel II Litigation (Round Two/Three)

Farmingdale Borough Judicial Determination (Round Three)

Woodbridge Township Judicial Determination (Round Three)

Milltown Borough Mount Laurel II Litigation (Round Two/Three)

Roselle Park Borough Mount Laurel II Litigation (Round Two/Three)

Oceanport Borough Mount Laurel II Litigation (Round Two/Three)

Toms River Township Mount Laurel II Litigation
(Remand for Builder's Remedy Only - Round Two)

Berlin Borough Mount Laurel II Litigation (Round Two/Three)

Cranford Township Mount Laurel II Litigation (Round Two/Three)

Hillsborough Township Judicial Determination (Round Three)

Hazlet Township Mount Laurel II Litigation (Round Two/Three)

Livingston Township Mount Laurel II Litigation (Round Two/Three)

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT-APPOINTED MASTER

(continued)

Haddon Township Mount Laurel II Litigation (Round Three)

Highland Park Borough Mount Laurel II Litigation (Round Two/Three)

Cinnaminson Township Judicial Determination (Round Three)

Bethlehem Township Judicial Determination (Round Three)

ELIZABETH C. MCKENZIE, P.P., P.A.

COURT-APPOINTED MEDIATOR

East Brunswick Township Litigation (Lapinski)

East Brunswick Township Litigation (Bailes)

East Brunswick Township Litigation (Heavenly Farms)

East Brunswick Township Litigation (Iaria)

Edison Township Litigation (TWC Realty)

Edison Township Litigation (Alfieri)

Monroe Township Litigation (N.J. Builders Association)

Scotch Plains Township Litigation (Fantini)

Metuchen Borough Litigation (LandBank, Inc. t/a
Metuchen I, LLC)

Piscataway Township Litigation (Regency Realty/Halper)

South Plainfield Township Litigation (Carole Media, et als.)

EXHIBIT B

REVISED THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN
Township of Branchburg
Adopted July 13, 2010 and Endorsed July 15, 2010

EXHIBIT B

BRANCBURG'S REVISED THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN ("Revised Third Round Plan"), previously submitted to COAH, is attached as Exhibit B to the McKenzie Certification provided to the Court. Because of its length, the Revised Third Round Plan is not attached to the copies provided to the other parties or persons receiving notice of this action. The full Revised

Third Round Plan is found at

<http://www.nj.gov/dca/services/lps/hss/archive.html>

by clicking on "Municipal Participation in the Third Round" and scrolling to Number 262 on Excel spreadsheet, under "Repetition Date."