

PIDGEON & PIDGEON
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

JOHN R. PIDGEON
MARY ANN KENNY PIDGEON
MICHAEL T. PIDGEON

600 ALEXANDER ROAD
PRINCETON, NEW JERSEY 08540

(609) 520-1010
FACSIMILE (609) 520-1001
jpidgeon@pidgeonlaw.com

July 6, 2015

BY MESSENGER

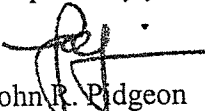
The Honorable Stephan C. Hansbury, P.J., Ch.
Superior Court of New Jersey
56 Washington Street
Morristown, NJ 07960-0910

Re: In the Matter of the Application of the Township of Long Hill, a Municipal Corporation of the State of New Jersey (Mt. Laurel)

Dear Judge Hansbury:

I enclose for filing the original and one copy of a Declaratory Judgment Complaint in the above matter along with our firm check in the amount of \$250.00. If the form of the Complaint is acceptable, please file the original and have your staff return a stamped filed copy to me in the enclosed reply envelope. I also enclose a Certification and report by the Municipal Planner in support of the Declaratory Judgment Complaint, with a copy attached of the Township's 2008 Third Round Housing Element and Fair Share Plan. Please have your staff mark the copy of the Certification "filed" and have them return the filed copy to me in the enclosed reply envelope along with the filed copy of the Complaint. By copy of this letter, I am serving copies of the Declaratory Judgment Complaint along with a copy of the Planner's Certification on all persons named on the attached Service List.

Respectfully yours,


John R. Pidgeon
Township Attorney

JRP:kbc
Enclosures

cc: Neil Henry, Administrator
Cathy Reese, RMC, CMR, Clerk
Jessica C. Caldwell, P.P., A.I.C.P., L.E.E.D. - G.A.
By e-mail, with enclosures

Attached Service List
By regular mail, with enclosures

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Blvd.
Cherry Hill, New Jersey 08002

Jonathan E. Drill, Esq.
Stickel, Koenig, Sullivan & Drill, LLC
571 Pompton Ave.
Cedar Grove, New Jersey 07009

Jeffrey R. Surenian, Esq.
Jeffrey R. Surenian & Associates, LLC
707 Union Ave., Suite 301
Brielle, New Jersey 08730

Edward J. Buzak, Esq.
Montville Office Park
150 River Road, Suite N-4
Montville, New Jersey 07045

Geraldine Callahan, Esq.
Deputy Attorney General
25 W. Market Street, PO Box 112
Trenton, New Jersey 08625

Jeffrey Kantowitz, Esq.
Law Office of Abe Rappaport
195 Route 46 West, Suite 6
Totowa, New Jersey 07512

Stephen Eisdorfer, Esq.
Hill Wallack LLP
202 Carnegie Center, PO Box 5226
Princeton, New Jersey 08543

Jacqui Adam, Housing Coordinator
Allies, Inc.
1262 White Horse-Hamilton Sq. Rd.
Bldg. A, Suite 101
Hamilton, New Jersey 08690

Adam Gordon, Esq.
Staff Attorney
Fair Share Housing Center
510 Park Blvd.
Cherry Hill, New Jersey 08002

Margarita Howard
Town of Boonton Housing Authority
125 Chestnut Street
Boonton, New Jersey 07005

Pam Lopez, Site Manager
Lounsberry Meadon
1449 Valley Rd.
Stirling, New Jersey 07980

Craig M. Gianetti, Esq.
Day Pitney LLP
1 Jefferson Rd.
Parsippany, New Jersey 07054-2891

Karl Hartkopf, PP, AICP
Director of Planning
Small Growth/State Planning
PO Box 204, 225 W. State St., 3rd Fl.
Trenton, New Jersey 08625-0204

James Humphries
New Jersey Highlands Council
100 North Road
Rte 513
Chester, New Jersey 07930-2322

Dan McGuire, AICP
Director, Development Division
Homeless Solutions
6 Dumont Place, 3rd Floor
Morristown, New Jersey 07960

Elizabeth Semple
NJ Dept. of Environmental Protection
PO Box 402
Trenton, New Jersey 08625



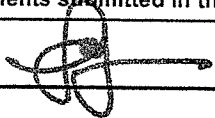
Tom Toronto, President
Bergen County's United Way
6 Forest Ave., Suite 210
Paramus, New Jersey 07625

Morris County Dept. of Planning & Dev.
PO Box 900
30 Schuyler P., 4th Floor
Morristown, New Jersey 07963-0900

Sherry L. Sims
Town of Boonton Housing Authority
125 Chestnut St.
Boonton, New Jersey 07005

Jon Vogel
Development Director
AvalanBay Communities, Inc.
517 Route 1 S, Suite 5500
Iselin, New Jersey 08830

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	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		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 John R. Pidgeon (Attorney ID No. 029021976)		TELEPHONE NUMBER (609) 520-1010	
	COUNTY OF VENUE Morris		DOCKET NUMBER (when available) _____	
	FIRM NAME (if applicable) Pidgeon & Pidgeon, PC		DOCUMENT TYPE Complaint	
OFFICE ADDRESS 600 Alexander Road Princeton, New Jersey 08520		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Township of Long Hill		CAPTION IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF LONG HILL, a municipal corporation of the State of New Jersey		
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 checked="" 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) _____ <input checked="" type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
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 checked="" 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 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 action filed in accordance with the Supreme Court decision 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).				
 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

- 601 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/AREXIA | 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

John R. Pidgeon - Lawyer ID No. 029021976
PIDGEON & PIDGEON, P.C.
Attorneys for Plaintiff/Petitioner Long Hill Township
600 Alexander Road
Princeton, New Jersey 08540
(609) 520-1010

IN THE MATTER OF THE)	Superior Court of New Jersey
APPLICATION OF THE TOWNSHIP OF)	Law Division: Morris County
LONG HILL, a municipal corporation of the)	
State of New Jersey,)	Docket No.
)	
Plaintiff/Petitioner.)	Civil Action
)	
)	COMPLAINT FOR DECLARATORY
)	JUDGMENT

Plaintiff/Petitioner, the Township of Long Hill (hereinafter "Long Hill Township"), a municipal corporation of the State of New Jersey having its offices at 915 Valley Road, Gillette, New Jersey 07933, by way of Complaint for Declaratory Judgment says:

JURISDICTION

1. Jurisdiction is established pursuant to the *New Jersey Declaratory Judgment Act, N.J.S.A. 2A:16-50, et seq.*
2. Jurisdiction is further established as a result of the Supreme Court decision, *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 "2015 Case").

BACKGROUND AND PRIOR ROUND OBLIGATIONS

3. In 1975, the Supreme Court of New Jersey in *South Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs.
4. In 1983, the Supreme Court refined that constitutional obligation in *South Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.
5. In 1985, the New Jersey Legislature adopted, and the Governor signed, the *Fair Housing Act ("FHA")* N.J.S.A. 52:2D-301 et seq. which transformed the judicial doctrine which became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it.
6. COAH proceeded to adopt regulations for first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999.

7. Long Hill Township has been participating in the COAH process since its inception. On February 19, 1987, Long Hill Township (which was then known as Passaic Township) filed and adopted Housing Element & Fair Share Plan dated February 17, 1987 that had been prepared by Township Planning Carl J. Lindbloom. Because Long Hill Township was court transferred, its filing on February 19, 1987 acted as a Petition for Substantive Certification pursuant to N.J.A.C. 5:91-4.1. On May 15, 1987, Long Hill Township submitted an adopted Housing Element and Fair Share Plan dated May 12, 1987 that had been revised in response to comments received from COAH. At that time, COAH had determined that Long Hill Township precertified need was 198 units, of which 179 were inclusionary and 19 were indigenous need. COAH granted the Township's First Round Petition for Substantive Certification by the adoption of a resolution on May 2, 1988.
8. During the second round, COAH established Long Hill Township's 1987-99 precertified need to be 85 units, 23 for rehabilitation and 62 for new construction. By resolution adopted August 2, 1995, COAH granted Long Hill Township's Second Round Petition for Substantive Certification after determining that the Township's 1987 through 1999 Fair Share Housing obligation of 85 units of low and moderate income housing was met through the rehabilitation of 5 units, the construction of 114 units and 36 rental bonus credits.

THIRD ROUND OBLIGATION

9. COAH first proposed third round substantive and procedural rules in October 2003, at 35 *N.J.R. 4636(a)*; 35 *N.J.R. 4700(a)*.

10. Those rules remained unadopted and COAH re-proposed both the substantive and procedural third round rules (*N.J.A.C. 5:94 AND 5:95*) in August of 2004 and adopted the same effective December 20, 2004. (the "2004 Regulations")
11. The Long Hill Township Planning Board adopted the Housing Element & Fair Share Plan in December of 2005 and in that same month the Township Committee filed a Petition for Third Round Substantive Certification with COAH.
12. The 2004 Regulations were challenged and on January 25, 2007, the Appellate Division invalidated portions of those regulations and remanded the rules to COAH with direction to adopt revised rules to conform to the constitutional and statutory mandate. *In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Zcouncil on Affordable housing, 390 N.J. Super. 1 (App. Div.), certif. denied, 192 N.J. 72 (2007)* (the "2007 Case").
13. On January 22, 2008, COAH proposed and published revised third round regulations on the *New Jersey Register*. 40 *N.J.R.* 237.
14. On May 6, 2008, COAH adopted the revised third round regulations and advised that the new regulations would be published in the June 2, 2008 *New Jersey Register*.
15. On that same date, May 6, 2008, COAH simultaneously proposed amendments to the revised third round rules it had just adopted. Those amendments were published in the *June 16, 2008 New Jersey Register*, 40 *N.J.R.* 3373 (*Procedural N.J.A.C. 5:96*); 40 *N.J.R.* 3374 (*Substantive N.J.A.C. 5:97*). The amendments were adopted on September 22, 2008 and became effective on October 20, 2008.

16. On December 16, 2008, the Long Hill Township Planning Board adopted the Housing Element & Fair Share Plan and on the following day the Township Committee adopted Resolution 08-426 endorsing the Housing Element & Fair Share Plan and authorizing the filing of a Third Round Petition for Substantive Certification with COAH. In this plan, the Township proposed meeting its affordable housing obligation by creating 10 accessory apartments, continuing a successful municipal rehabilitation program, establishing of a group home for the developmentally disabled with 5 units, developing 33 units of age restricted housing in the Valley Road Business district and adopting an inclusionary zoning ordinance for 24 units of affordable units in the Valley Road Business District and the Tifa mixed use site. That plan also acknowledged the seven units credited from prior rounds. On December 29, 2008, the Township filed a Petition for Third Round Substantive Certification with COAH. On May 21, 2009, the Township received the determination of completeness from COAH and on July 31, 2009, the Township received a notice from COAH that no objections to the petition had been received. Despite the fact that the Township's Petition had been deemed complete and no objections were filed, COAH never acted on the Townships Petition for Third Round Substantive Certification.

THE TRANSFER OF JURISDICTION TO THE COURTS

17. *N.J.A.C. 5:96 and 5:97*, as adopted in 2008, were challenged in an appeal entitled *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Council on Affordable Housing*, 416 N.J. Super, 462 (App. Div. 2010) (the "2010 Case"). In its October 8, 2010 decision, the Appellate Division determined, among other things, that the growth share

methodology was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the First and Second Rounds for the period 1987 through 1999.

18. On September 26, 2013, the Supreme Court of New Jersey, 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*, 215 N.J. 578 (2013) (the "2013 Case"), affirmed the Appellate Division's invalidation of the third iteration of the Third Round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the first and second rounds.
19. COAH thereafter proceeded to propose such regulations in accordance with the schedule and amended schedule established by the New Jersey Supreme Court in the 2013 Case.
20. On October 20, 2014, COAH deadlocked with a 3-3 vote and failed to adopt the revised Third Round regulations.
21. In response to COAH's failure to adopt the revised regulations and subsequent inaction, Fair Share Housing Center ("FSHC"), a party in the 2010 Case and the 2013 Case, filed a motion with the New Jersey Supreme Court to enforce litigant's rights.
22. On March 10, 2015, the New Jersey Supreme Court issued its decision on FSHC's motion to enforce litigant's rights. (*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.(2015) (the "2015 Case"). The Supreme Court in the 2015 Case found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts.

23. In so doing, the Supreme Court established a transitional process for municipalities, like Long Hill Township, that participated in the administrative process before COAH to file a declaratory judgment action with the trial courts seeking to declare their HEFSP's as being constitutionally compliant and seeking similar protections to those that the participating municipalities would have received if they had continued to proceed before COAH.
24. In explaining the transitional process it contemplated, the Supreme Court equated these "Participating Municipalities" to those municipalities that had sought in 1985 to transfer jurisdiction from the Court to the newly created COAH and switch the forum from a judicial one to an administrative one under *N.J.S.A. 52:27D-316*.
25. While the Supreme Court in the 2015 Case declined to adopt a specific methodology or formula to calculate the third round affordable housing obligations of the municipalities and instead left that determination to the 15 Mount Laurel Judges (one in each vicinage), it did provide some guidance by reiterating its endorsement of the previous methodologies employed in the First and Second Round Rules as the template to establish third round affordable housing obligations, and as abovementioned, by treating Participating Municipalities filing Declaratory Judgment actions in the same way that the 1985 FHA when originally enacted on July 2, 1985 treated municipalities transitioning from the judicial to the administrative process.
26. In light of the decisions in the 2013 Case and the 2015 Case, Long Hill Township and its planner are currently in the process of preparing a revised HEFSP that will verify full compliance of Long Hill Township with its constitutional affordable housing obligations.

COUNT ONE
(Declaratory Relief, Constitutional Compliance)

27. Long Hill Township repeats and realleges the allegations set forth in Paragraphs 1 through 26 of this Complaint and makes them a part hereof as though set forth at length herein.
28. Pursuant to the *Declaratory Judgment Act, N.J.S.A. 2A:16-50 et seq.*, and the 2015 Case, Long Hill Township has a right to a declaratory judgment verifying and confirming its full compliance with its constitutional affordable housing obligations

WHEREFORE, Plaintiff/Petitioner, Long Hill Township respectfully requests that the Court grant the following relief:

- a. An Order exercising jurisdiction over the compliance by Long Hill Township with its constitutional affordable housing obligations, and
- b. An Order declaring that Long Hill Township has fully discharged its constitutional affordable housing obligations and is granted protection and repose against exclusionary zoning litigation.
- c. A Judgment of Compliance and Repose for a period of ten (10) years from its date of entry.
- d. Granting such further relief as the court may deem proper and just under the circumstances.

COUNT TWO
(Five Months to Prepare HEFSP)

29. Long Hill Township repeats and realleges the allegations set forth in Paragraphs 1 through 29 of this Complaint and makes them a part hereof as though set forth at length herein.
30. In the 2015 Case, the Supreme Court equated participating municipalities who file Declaratory Judgment actions like this one to those municipalities who were involved in litigated matters in 1985 when the *Fair Housing Act* was adopted and successfully transferred their litigated cases to COAH and were entitled under N.J.S.A. 52:27D-316 to a five-month period from the date of transfer or the date of the promulgation of criteria and guidelines by COAH, whichever occurred later to prepare its HEFSP.
31. The Supreme Court in the 2013 Case and in the 2015 Case declined to establish a specific methodology or formula to calculate third round affordable housing obligations of the municipalities and instead left that determination to the 15 Mount Laurel Judges (one in each vicinage), directing that the methodology or formula established should be similar to that employed in the first and second round rules.
32. As a result of the Supreme Court's actions in the 2013 Case and the 2015 Case, there are insufficient criteria and guidelines established by the Court at this time for Long Hill Township to prepare a compliant HEFSP which this Court could evaluate to determine its constitutional compliance.
33. In the 2015 Case, the Supreme Court afforded wide discretion to the 15 Mount Laurel Judges in addressing these Declaratory Judgment actions and enabled the trial judges

specifically to grant municipalities a five-month period within which to prepare a compliant HEFSP in accordance with the approved methodology and formula established by said trial judges.

34. By equating these Participating Municipalities to those municipalities who in 1985 transferred their litigated case from the Court to COAH, and then had a five (5) month period from the date of transfer or the date that guidelines and regulations were adopted by COAH, whichever was later, the Long Hill Township is entitled to the opportunity to prepare and adopt a HEFSP within five (5) months from the date that the Court establishes the methodology and formula which will quantify the affordable housing obligation of Long Hill Township and allow for the preparation and adoption of a constitutionally compliant HEFSP

WHEREFORE, Plaintiff/Petitioner, Long Hill Township respectfully requests that the Court grant the following relief:

- a. An Order giving the Long Hill Township until December 8, 2015, or such date established by the Court, to prepare a constitutionally compliant HEFSP that incorporates the formula and methodology approved by this trial court or otherwise.
- b. Granting such further relief as the court may deem proper and just under the circumstances.

COUNT THREE
(Request for Immunity)

35. Long Hill Township repeats and realleges the allegations set forth in Paragraphs 1 through 34 of this Complaint and makes them a part hereof as though set forth at length herein.
36. In the 2015 Case, the Supreme Court afforded Participating Municipalities who file Declaratory Judgment actions seeking to verify and confirm their constitutional compliance with their affordable housing obligations, the right to seek temporary immunity from third party lawsuits while pursuing these Declaratory Judgment actions and the development of compliant HEFSP's.
37. Long Hill Township by virtue of the filing of the within action is eligible to seek and obtain immunity from third party lawsuits while pursuing its Declaratory Judgment action pursuant to the 2015 Case.

WHEREFORE, Plaintiff/Petitioner, Long Hill Township respectfully requests that the Court grant the following relief:

- a. An Order granting temporary immunity from third party lawsuits against Long Hill Township from the date of the filing of the instant Declaratory Judgment action until this Court issues a Final Judgment of Compliance and Repose to the Township for its HEFSP formulated, adopted and approved in accordance with the applicable formula and methodology established by this Court.
- b. Granting such further relief as the court may deem proper and just under the circumstances.


COUNT FOUR
(Amendments to Approved Spending Plans)

38. Long Hill Township repeats and realleges the allegations set forth in Paragraphs 1 through 37 of this Complaint and makes them a part hereof as though set forth at length herein.
39. By resolution adopted December 27, 2013, COAH approved Long Hill Township's Spending Plan which included \$30,000 for rehabilitation, \$327,371 for maintenance and repair activities at Lounsberry Meadow (the Township's senior citizen/handicapped 100% affordable development), \$76,376 for affordability assistance and \$136,003 for administration.
40. As a result of the 2015 Trust Fund Case, and on information and belief, COAH has been divested of, and/or has relinquished jurisdiction over approval of any amendments to any Spending Plan of Long Hill Township.
41. It is anticipated that as part of the mechanism to satisfy the affordable housing obligations of Long Hill Township, as determined by this Court, an amendment or supplement to the Spending Plan previously approved by COAH will be required.
42. Long Hill Township requests that this Court assume jurisdiction to approve any such amendment or supplement to the Spending Plan of Long Hill Township in order to effectuate and implement its HEFSP approved by this Court and any future amendments or supplements pending any reversion of jurisdiction to COAH, so as to allow Long Hill Township the ability to utilize and expend its Affordable Housing Trust Funds to advance its affordable housing plans and satisfy its affordable housing obligation.

WHEREFORE, Plaintiff/Petitioner, Long Hill Township respectfully requests that the Court grant the following relief:

- a. An Order that this Court assume and assert jurisdiction for the approval of any amendment or supplement to the Spending Plan previously approved by COAH in the same manner as COAH would have considered and approved such amendments or supplements.
- b. Granting such further relief as the court may deem proper and just under the circumstances.


Pidgeon & Pidgeon, P.C.
Attorneys for plaintiff/petitioner

By: 
John R. Pidgeon

Dated: July 6, 2015

CERTIFICATION OF SERVICE

I certify that a copy of this Complaint for Declaratory Judgment was served on all persons on the attached service list by regular mail as required by the Supreme Court in *In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous.*, 221 N.J. 1, 23 (2015).




John R. Pidgeon

Dated: July 6, 2015

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that John R. Pidgeon, Esq., Attorney for Plaintiff/Petitioner, Long Hill Township is designated as trial counsel in the above captioned matter.



John R. Pidgeon

Dated: July 6, 2015

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject matter of any other action pending in any Court or of a pending arbitration or administrative proceeding, and that no other action or arbitration or administrative proceeding is contemplated, except that Plaintiff has previously submitted a Petition for Substantive Certification to the New Jersey Council on Affordable House, who, as a result of the 2015 Case, has been divested of jurisdiction which has been assumed by this Court as a result of the filing of the within Declaratory Judgment action.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



John R. Pidgeon

Dated: July 6, 2015

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Blvd.
Cherry Hill, New Jersey 08002

Jonathan E. Drill, Esq.
Stickel, Koenig, Sullivan & Drill, LLC
571 Pompton Ave.
Cedar Grove, New Jersey 07009

Jeffrey R. Surenian, Esq.
Jeffrey R. Surenian & Associates, LLC
707 Union Ave., Suite 301
Brielle, New Jersey 08730

Edward J. Buzak, Esq.
Montville Office Park
150 River Road, Suite N-4
Montville, New Jersey 07045

Geraldine Callahan, Esq.
Deputy Attorney General
25 W. Market Street, PO Box 112
Trenton, New Jersey 08625

Jeffrey Kantowitz, Esq.
Law Office of Abe Rappaport
195 Route 46 West, Suite 6
Totowa, New Jersey 07512

Stephen Eisdorfer, Esq.
Hill Wallack LLP
202 Carnegie Center, PO Box 5226
Princeton, New Jersey 08543

Jacqui Adam, Housing Coordinator
Allies, Inc.
1262 White Horse-Hamilton Sq. Rd.
Bldg. A, Suite 101
Hamilton, New Jersey 08690

Adam Gordon, Esq.
Staff Attorney
Fair Share Housing Center
510 Park Blvd.
Cherry Hill, New Jersey 08002

Margarita Howard
Town of Boonton Housing Authority
125 Chestnut Street
Boonton, New Jersey 07005

Pam Lopez, Site Manager
Lounsbury Meadon
1449 Valley Rd.
Stirling, New Jersey 07980

Craig M. Gianetti, Esq.
Day Pitney LLP
1 Jefferson Rd.
Parsippany, New Jersey 07054-2891

Karl Hartkopf, PP, AICP
Director of Planning
Small Growth/State Planning
PO Box 204, 225 W. State St., 3rd Fl.
Trenton, New Jersey 08625-0204

James Humphries
New Jersey Highlands Council
100 North Road
Rte 513
Chester, New Jersey 07930-2322

Dan McGuire, AICP
Director, Development Division
Homeless Solutions
6 Dumont Place, 3rd Floor
Morristown, New Jersey 07960

Elizabeth Semple
NJ Dept. of Environmental Protection
PO Box 402
Trenton, New Jersey 08625

Tom Toronto, President
Bergen County's United Way
6 Forest Ave., Suite 210
Paramus, New Jersey 07625

Morris County Dept. of Planning & Dev.
PO Box 900
30 Schuyler P., 4th Floor
Morristown, New Jersey 07963-0900

Sherry L. Sims
Town of Boonton Housing Authority
125 Chestnut St.
Boonton, New Jersey 07005

Jon Vogel
Development Director
AvalanBay Communities, Inc.
517 Route 1 S, Suite 5500
Iselin, New Jersey 08830

John R. Pidgeon - Lawyer ID No. 029021976
PIDGEON & PIDGEON, P.C.
Attorneys for Plaintiff/Petitioner Long Hill Township
600 Alexander Road
Princeton, New Jersey 08540
(609) 520-1010

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
LONG HILL, a municipal corporation of the
State of New Jersey,

Plaintiff/Petitioner.

)
) Superior Court of New Jersey
) Law Division: Morris County
)

) Docket No.
)

) Civil Action
)

) CERTIFICATION OF JESSICA C.
) CALDWELL, PP, AICP, LEED-GA, IN
) SUPPORT OF COMPLAINT FOR
) DECLARATORY JUDGMENT
)


JESSICA C. CALDWELL, PP, AICP, LEED-GA , certifies as follows:

1. I am the Township Planner for the Township of Long Hill ("Long Hill Township"). I currently represent several municipal planning, zoning and land use Boards as well as governing bodies in north Jersey including the Borough of Mt. Arlington, Town of Newton, Green Township, Sandyston Township, Vernon Township, Andover Township and Wharton.
2. This Certification is being submitted in support of the Township's Complaint for Declaratory Judgment that is being filed pursuant to the recent Supreme Court Decision, *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 “2015 Case”), where the court dissolved the Fair Housing Act’s exhaustion of administrative remedies requirement and ordered that “[t]he courts may resume their role as the forum of first resort for evaluating municipal compliance with Mount Laurel obligations”

3. Attached hereto is Exhibit “A” is an Affordable Housing Review for Declaratory Judgment Filing, dated June 12, 2015, that I prepared on behalf of the Township which forth the Township’s affordable housing history and its participation in the COAH process since its inception.
4. Attached as Exhibit “B” is a true copy of the Township’s Third Round Housing Element & Fair Share Plan which was adopted on December 16, 2008, and which was submitted to COAH on December 29, 2008.

I hereby certify the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


JESSICA C. CALDWELL, PP, AICP,
LEED-GA

Dated: July 2, 2015

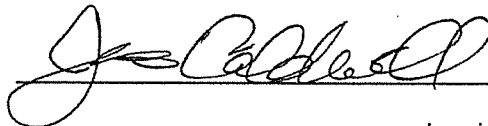
EXHIBIT A

**AFFORDABLE HOUSING REVIEW
FOR A
DECLARATORY JUDGEMENT FILING**

**LONG HILL TOWNSHIP
MORRIS COUNTY
COAH REGION 2**

June 12, 2015

The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.

A handwritten signature in black ink, appearing to read 'Jessica C. Caldwell', is written over a horizontal line.

Jessica C. Caldwell, P.P., A.I.C.P.

New Jersey Professional Planner #5944

Introduction

The Township of Long Hill is a rural suburban municipality located in southern Morris County in COAH's Northwest Region 2. It is bounded by the Passaic River on the south and west and by the Great Swamp National Wildlife Refuge on the north, which together account for nearly half of the Township's 12.1 square miles. Long Hill has a total population of 8,702 people according to the 2010 Census. The population of the Township has remained relatively stable over the past decade: the Township's population peaked in 2000 at 8,777 people and was estimated at 8,749 people, as of the 2013 American Community Survey.

According to the 2010 Census, there were 3,105 occupied housing units in Long Hill Township, and the 2013 American Community Survey 5-year projections estimated 2,997 total housing units, of which 2,938 were occupied. The 2013 American Community Survey showed that during the period 2000-2009, an estimated 188 new housing units were constructed in Long Hill Township, for an average of 18 homes a year. A similar review of housing units certified and demolitions performed in Long Hill between 1996 and 2007 found that 121 housing units were added to the Long Hill housing inventory in that 12 year period, averaging 10 homes per year.

Residential development in Long Hill is limited primarily due to the limited availability of developable land, environmental constraints from flooding, and the large percentage of the Township preserved as open space. In addition, the Township has limited new or expanded sewer connections because the municipal sewer system has reached capacity.

The New Jersey State Development and Redevelopment Plan identifies all of Long Hill Township as an Environmentally Sensitive Planning Area or as Parks and Natural Areas. In the Environmentally Sensitive Planning Area (PA 5), the Plan states that the location, character and magnitude of development must be linked to the capacity of the natural and built environment to support new growth and that large contiguous areas of undisturbed habitat should be maintained. This is further upheld by the Long Hill Township Master Plan, which seeks to conserve and enhance the rural character of the Township and to preserve, protect and enhance its natural resources.

Prior Round

Long Hill Township received Substantive Certification from COAH for Round 2 on August 2, 1995. The Township's prior round obligation was 85 units, of which 23 were rehabilitation and 62 units were new construction. Long Hill Township has fully addressed its prior round obligation of 62 new construction credits through developments at Chestnut Run, Stirling Manor and Lounsberry Meadow, an accessory dwelling unit program, and an RCA agreement with the City of Newark for 42 family units.

COAH's compliance report found that Long Hill had provided 155 affordable housing units and that the second round obligation was zero with 70 excess credits. In July 23, 2001, Long Hill requested interim Substantive Certification from COAH, reporting excess credits of 103 units. On December 12, 2004, the Township applied for a one-year extension of Second Round certification and committed to applying for Third Round certification by December 20, 2005. COAH granted this motion on February 9, 2005.

Third Round

COAH adopted its Third Round Regulations on December 20, 2004, requiring Long Hill Township to petition for Third Round Substantive Certification in order to remain under COAH's jurisdiction. The Long Hill Township Planning Board and Township Committee both adopted the Housing Element and Fair Share Plan in December 2005 and petitioned to COAH for Third Round Certification in late 2005. On October 6, 2006, COAH issued a report requesting additional information.

On January 25, 2007, the Appellate Division issued a decision on an appeal of COAH's Third Round regulations, which required COAH to revise its Third Round Rules and precluded COAH from issuing Third Round Substantive Certifications until the new rules were adopted. As a result, Long Hill's Petition for Third Round Substantive Certification was put on hold during the rule making process.

On May 6, 2008, COAH adopted new Third Round rules, which became effective on June 2, 2008. At the same time, COAH proposed amendments to those rules. Those amendments were published in the New Jersey Register on June 16, 2008. The amendments were adopted on September 22, 2008, with an additional amendment proposed on the same day. The amended rules were then adopted on October 20, 2008. As a result of the newly adopted Third Round Substantive Rules, communities petitioning to COAH for Third Round Substantive Certification were required to submit updated Housing Elements and Fair Share Plans that met the new rules by December 31, 2008.

On December 16, 2008, the Township of Long Hill Planning Board adopted the Housing Element and Fair Share Plan of the Township Master Plan, and the following day, the Township Committee passed Resolution 08-426 endorsing the Housing Element and Fair Share Plan and filing petition for substantive certification with COAH. This Plan contained several techniques for Long Hill Township to meet its affordable housing obligation. These techniques included the creation of ten (10) accessory apartments; continuation of a successful municipal rehabilitation program; establishment of a group home for the developmentally disabled with five (5) units;

the development of 33 units of age-restricted housing in the Valley Road Business District area and the Lounsberry Meadows development; and an inclusionary zoning ordinance for 24 units of affordable units at the Valley Road Business District Area and the TIFA mixed-use site. The Plan also acknowledges the 70 units credited from Prior Rounds.

On December 29, 2008, Long Hill Township filed a petition for Substantive Third Round Certification with COAH. Long Hill received a determination of completeness for its petition on May 21, 2009, and on July 31, 2009, Long Hill received notice stating no objections to the petition had been received.

Development Approvals for Affordable Housing

Despite delays and uncertainty at the state level for affordable housing requirements, Long Hill Township has proceeded diligently with implementation of its plans for affordable housing plan, in order to provide a realistic opportunity to achieve its fair share of the present and prospective regional need for low and moderate income housing.

Long Hill Township has demonstrated successful construction of thirteen (13) affordable units through its accessory apartment program. The Township has also continued a successful rehabilitation program to renovate deficient housing units occupied by low- and moderate-income households. This program invests a minimum of \$10,000 per unit for major system renovations and includes 10-year affordability controls.

The Township has also shown progress towards the establishment of a group home for disabled adults. In December 2010, the Allegro School, a non-profit that provides educational, employment and residential services to persons with autism, established a group home at 496-502 Valley Road in Long Hill. (Block 11001, Lot 23).

The Township Housing Element and Fair Share Plan calls for a 12-unit expansion of the Lounsberry Meadow apartment complex, an existing 51-unit income-eligible senior and handicapped development located at 1449 Valley Road. The complex is located in close proximity to the Township's main streets, shopping, public institutions, and recreational areas. This complex sustained substantial building system damage during Hurricane Sandy, and the Township has worked diligently since the disaster to provide health and safety improvements to the original development, committing \$327,317 in Affordable Housing Trust Funds for health and safety improvements and \$766,376 for affordability assistance. These expenditures were substantiated by a Development Agreement by and between the Long Hill Township Committee and Lounsberry Meadow, LP, dated June 28, 2012 and a Township Committee Resolution 13-

149 dated March 27, 2013 amending that Development Agreement. On October 9, 2013, the Township Committee authorized the disbursement of these funds through Resolution 13-322.

Inclusionary Zone

The Township's proposed Third Round inclusionary zone has not yet been adopted. It was proposed for the Valley Road Business District Area and the TIFA mixed-use site. The Township adopted a "Valley Road Business District Element" to the Township Master Plan on June 26, 2012. Since November 2014, the Master Plan Committee of the Township Planning Board has been reviewing a proposed zoning ordinance to create a new Downtown zone, B-D, that would permit senior citizen housing and "all types of Residential dwelling units on upper floors and behind street front uses of mixed use buildings" in the Valley Road Business District. The potential to establish an inclusionary zone remains, as the Master Plan Committee continues its review.

The TIFA redevelopment proposal identified in the Township's Housing Element and Fair Share Plan calls for replacing the existing TIFA building between Division Road, Stonehouse Road, the Passaic River and the Millington Transit Station with a mixed-use, transit-oriented development with 144 to 180 residential rental units (of which 10 would be affordable) and ground-level retail and office. The developer, Advance Realty, presented a concept plan to the Township Committee on February 22, 2012. However, development of this site has proved extraordinarily challenging due to the fact that the TIFA building is adjacent to a capped SuperFund toxic remediation site.

Housing Trust Fund and Spending Plan

On October 2, 2008, the Long Hill Township Committee passed a Development Fee Ordinance creating a dedicated revenue source for affordable housing, and on December 17, 2008, the Township Committee adopted Resolution 08-434 to approve the Affordable Housing Trust Fund Spending Plan.

As of July 17, 2008, Long Hill Township had taken in \$403,738, of which \$403,737 had been committed to expenditures at the Lounsberry Meadow development (\$327,317 for health and safety improvements and \$76,421 for affordability assistance). These expenditures were substantiated by a Development Agreement by and between the Long Hill Township Committee and Lounsberry Meadow, LP, dated June 28, 2012 and a Township Committee Resolution 13-149 dated March 27, 2013 amending that Development Agreement. On October 9, 2013, the Township Committee authorized the disbursement of these funds through Resolution 13-322.

Declaratory Judgement Filing

Long Hill Township is seeking a Declaratory Judgement deeming the Township's housing element and implementing ordinances constitutionally sufficient to comply with the Fair Housing Act and the Township's affordable housing obligations. The Township received Substantive Certification for Rounds 1 and 2. The Township has twice petitioned COAH for Round 3 Substantive Certification with no results, and has received no objections to its plans.

The Township developed a well-devised housing element and fair share plan and took action toward adopting ordinances in furtherance of its plan. The Township fulfilled, and exceeded, prior round housing obligations, resulting in a credit of 70 units for Round 3. The Township has had an ongoing housing rehabilitation program to address its rehabilitation requirement and demonstrated success with an accessory apartment program. It has fulfilled its commitment to establish a group home for disabled adults, and provided for the major system rehabilitation of the Township's major senior and disabled living facility following significant damage during Hurricane Sandy. The Township approved a development fee ordinance in 2008, to collect funds to pay for affordable housing activities. The Township has committed all \$403,747 in Housing Trust Fund monies for qualified affordable housing project and programs consistent with the Fair Housing Act. All of these efforts show compliance with Long Hill's constitutional obligation to produce a fair share of the present and prospective regional need for low- and moderate-income housing.

Round 3 Certification is now the responsibility of the courts. There have not been clear or certain obligations set for municipalities to address in the current Round 3 process. In seeking a Declaratory Judgement, Long Hill Township requests to work with the court to establish a reasonable obligation for the Township that it can address in the remaining Round 3 period from 2015 to 2025. The reasonable aspect of the obligation should be tied to the fact that Long Hill has some limitations in creating housing due to the large percentage of the Township's land within flood plain and environmental protection areas; the stagnant real estate market in general (on average, only 10 new residential units are created in the Township each year); economic inactivity in housing due to changing housing trends; limited sewer capacity and the prohibitive cost of remediating toxic hazards near at least one of the Township's major redevelopment sites. Long Hill Township requests five months from the date an obligation is established by the court to prepare a revised Housing Element and Fair Share Plan that corresponds to the new obligation.

EXHIBIT B

TOWNSHIP OF
LONG HILL
HOUSING ELEMENT
and
FAIR SHARE PLAN
of the
MASTER PLAN

Prepared for:
The Long Hill Township
Planning Board
16 December 2008

Kevin O'Brien, P.P.
Shamrock Enterprises, Ltd.
NJ License #5348

TOWNSHIP COMMITTEE

George Vitureira, Mayor
Jerry Aroneo, Deputy Mayor
Mead Briggs III
Chris Collins
Mike Mazzucco

PLANNING BOARD

Richard Albers, Chair
Chris Connor, Vice Chair
Mead Briggs, III, Committeeperson
Thomas Behr, Ph.D.
Donald Butterworth
Lisa DeMizio, Esq.
Kevin Dempsey
Patricia Guilfoyle
Marianne Legato, Esq.
Leonard Hamilton, Ph.D.
George Vitureira, Mayor

AFFORDABLE HOUSING COMMITTEE

Thomas Behr, Ph.D.
Chris Connor, Vice Chair
Lisa DeMizio, Esq.
George Vitureira, Mayor
Patricia Guilfoyle, alternate

STAFF

John Pidgeon, Esq. - Township Attorney
Richard Sheola - Administrator
Dawn Wolfe - Planning and Zoning Administrator
Barry Hoffman, Esq. - Board Attorney
Justin Lizza, P.E. - Township Engineer
Kevin O'Brien, P.P. - Township Planner

Master Plan Element prepared with:

Kevin O'Brien, P.P.
NJ License 5348
Shamrock Enterprises, Ltd.
Rahway, NJ 07065
732/388-4765

TOWNSHIP OF LONG HILL
Planning Board Resolution Adopting the
Housing Element and Fair Share Plan

WHEREAS, the Planning Board of the Township of Long Hill, Morris County, State of New Jersey, adopted the Township's current Master Plan pursuant to N.J.S.A. 40:55D-28 in 1996 and subsequently adopted the Master Plan and Development Regulations Reexamination Report on 25 November 2003, and subsequently adopted the Housing Element and Fair Share Plan of the Master Plan on 27 September 2005; and

WHEREAS, the Master Plan includes a Housing Element pursuant to N.J.S.A. 40:55D-28b (3); and

WHEREAS, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement thereof by the Governing Body; and

WHEREAS, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987-2018 fair share affordable housing obligation of the Township of Long Hill; and

WHEREAS, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement thereof by the Governing Body; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of the Township of Long Hill held a public hearing on the Housing Element and Fair Share Plan on 16 December 2008 at which time interested parties were entitled to be heard; and

WHEREAS, the Planning Board has determined that the proposed Housing Element and Fair Share Plan are consistent with the goals and objectives of the Township of Long Hill's 1996 and its subsequent Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and will protect public health and safety and will promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of Long Hill, State of New Jersey, that the Planning Board hereby adopts the 16 December 2008 Housing Element and Fair Share Plan.

Richard F. Albers, Chairman

I hereby certify that this is a true copy of a resolution adopting the Housing Element and Fair Share Plan of the Township of Long Hill, Morris County on 16 December 2008.

Dawn V. Wolfe, Planning and Zoning Administrator

A. OVERVIEW OF THE THIRD ROUND COAH RULES

The Housing Element and Fair Share Plan for Long Hill Township has been prepared in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28b(3) to address the Township's third round affordable housing obligations covering the period from 2000 to 2018, with a delivery period from 2008 to 2018. This Plan includes the minimum requirements presented by N.J.S.A. 52:27D-310, the Fair Housing Act, and the information required pursuant to N.J.A.C. 5:97-2.3 and 3.2.

According to the Fair Housing Act, municipalities that choose to enact and enforce a zoning ordinance are obligated to prepare and adopt a Housing Element as part of the community's Master Plan. The Fair Housing Act established the Council on Affordable Housing (COAH) as the State agency to administer municipal implementation of municipal Housing Elements and Fair Share Plans and to create rules and regulations regarding the development of low- and moderate-income housing in the State. COAH has established both Procedural and Substantive Rules for municipalities to adhere to in addressing their affordable housing obligations. To receive certification from COAH, a municipality must not only adopt the required Housing Element of the Master Plan but also a Fair Share Plan that includes all of the implementation strategies, including the specific ordinances, plans, timetables and resolutions that are needed to carry out the plan. Once certified by COAH (or approved by a Court in a Judgment of Compliance and Repose), a municipality's Housing Element and Fair Share Plan is entitled to a ten-year presumption of validity against a builders remedy challenge.

COAH's first round regulations covered the time period from 1987 to 1993. In 1994, COAH adopted new Substantive Rules establishing the requirements for the second round of affordable housing plans, covering the twelve year cumulative period from 1987 to 1999.

The Substantive Rules for COAH's third round were initially adopted on December 20, 2004, to cover the period from January, 2000, to December, 2013. These third round Rules were challenged, and in January of 2007, the Appellate Court invalidated large portions of the 2004 Rules. As a result, COAH went back to the drawing board and prepared new Rules, which were introduced in December, 2007 and adopted in May, 2008. COAH received an overwhelming number of comments on the December 2007 Rule proposals. Consequently, when COAH adopted the Rules, it simultaneously introduced a set of comprehensive amendments to the newly adopted Rules. These amendments were adopted in September, 2008. In addition, the New Jersey Legislature

adopted amendments to the Fair Housing Act in June, 2008 that were signed into law by the Governor in July, 2008.

The Rules now in effect provide that municipalities address a third round fair share obligation based upon COAH's projections of growth in households and employment in each municipality during the delivery period. These projections have been calculated by COAH based upon an independent evaluation of available land. The Township did not contribute in any way to this analysis, and have serious reservations about the projections' applicability to the unique circumstances of Long Hill. The Township reserves the right to review COAH's projections and submit objections thereto. Municipalities are required to provide one affordable housing unit for every four market priced housing units projected and one affordable housing unit for every 16 jobs projected.

B. HOUSING ELEMENT

1. INTRODUCTION TO THE HOUSING ELEMENT

With the passage of the Fair Housing Act in 1985 (P.L. 1985, C.222), the Municipal Land Use Law (MLUL) was amended to require a Housing Element as a mandatory element of the municipal Master Plan. A variety of components must be incorporated into every Housing Element, summarized as follows:

- An inventory of the municipality's housing stock by age, condition, value and occupancy characteristics;
- A projection of future housing construction for the next six years;
- An analysis of the municipality's demographic characteristics including household size, income level and age;
- An analysis of existing and future probable employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate low and moderate income housing; and
- A consideration of the lands that are most appropriate for the construction of low and moderate income housing, including structures which may be rehabilitated and lands of developers, if any, who have expressed a commitment to provide low and moderate income housing.

These components will be addressed in the course of this Master Plan, as explained below.

2. ORGANIZATION OF THIS ELEMENT

The intention of this Element of the Master Plan is to address the statutory requirements of the Municipal Land Use Law as noted above as well as the Third Round of regulations promulgated by the New Jersey Council on Affordable Housing (COAH) in May, 2008.

The initial part of this Element, titled Section 3, will list the Housing Objectives of the Township. The following section (Section 4) will address the MLUL

components cited above. An overview of the Township's affordable housing status will follow in Section 5.

3. HOUSING OBJECTIVES

Each Element of the Master Plan contains a section concerning the goals and objectives of that specific element. The goals and objectives of this Housing Element and Growth Share Plan are as follows:

1. Comply with the Growth Share housing mandate while keeping in mind the practical limitations of the significant physical constraints on vacant land and the vast amount of preserved open space in the Township.
2. Seek and maintain Council on Affordable Housing (COAH) approval of the Township's housing plan to retain control of the methods by which affordable housing will be provided in the Township.
3. Although there is limited available land capacity where higher density inclusionary housing could be encouraged in the Township, appropriate residential development should be inclusionary and provide for its share of affordable housing.
4. Any housing development that is unable to provide inclusionary affordable housing shall contribute to a Township administered Growth Share Trust Fund.
5. The Township shall continue to allow accessory apartments in private residences and shall maintain the appropriate records to document these types of apartments.
6. The Township shall continue to provide opportunities for the rehabilitation of homes which are in need of repair and which are occupied by low and moderate income households.
7. The Township shall continue to encourage the establishment of Group Homes, for the Developmentally Disabled, as well as other appropriate groups. This provides much needed assistance to a sector of the population in need.
8. The Township shall continue to encourage senior citizen age restricted housing to offer our older residents a place to live near home when they no longer need a full size house with all of its attendant maintenance responsibilities.

9. The Township shall use its current 70 unit credit from COAH as judiciously as possible. The Township will consider using a portion of the credits as an incentive to encourage commercial development in the Valley Road Business District.

4. MUNICIPAL LAND USE LAW REQUIRED COMPONENTS

1. An inventory of the municipality's housing stock by age, condition, value and occupancy characteristics.

The 2000 US Census is our primary source for the housing information requested and the US Census Bureau reports concerning this information may be found in the below tables. We have confidence in using the 2000 census figures as a base, because the township's sewer ban has effectively restrained growth since 2001. Growth has been minimal, as shown in the tables below.

The Census Bureau found 3,206 total housing units in the Township.

The age of Long Hill Township's housing stock is somewhat older than one might expect at a first glance at the Township. 61.6% of all housing stock in existence at the time of the 2000 census is over 35 years old and was constructed before 1970. Interestingly, 12.2% of the housing stock was built between 1990 and 2000. See table below for details

HOUSING STOCK AGE

YEAR STRUCTURE BUILT	Number	Percent
1999 – March 2000	18	.6
1995 – 1998	233	7.3
1990 – 1994	139	4.3
1980 – 1989	494	15.4
1970 – 1979	348	10.9
1960 – 1969	570	17.8
1940 – 1959	869	27.1
1939 or earlier	535	16.7

The condition of Long Hill Township's housing stock is good. The Census Bureau reports that there are no homes in the Township without complete plumbing facilities, kitchen facilities or without telephone service. The Township Code Enforcement Officer has responded diligently to complaints concerning property maintenance and code violations for over two years and has yet to find any home that is not in good condition.

The value of Long Hill Township's housing stock was fairly high for the area in the 2000 census numbers, as shown below. Housing values rose considerably due to the rapid increase in housing values following the 2000 stock market crash through 2006. Currently market conditions have significantly impacted housing prices, causing a retreat in values from the 2006 peak. Today's values are conservatively estimated to be between 75% and 100% higher than the values reported in 2000, anecdotally reported by local realtors.

HOUSING VALUE

VALUE	Number	Percentage
Less than \$50,000	17	.7
\$50,000 to 99,999	18	.7
\$100,000 to 149,999	73	2.9
\$150,000 to 199,999	318	12.7
\$200,000 to 299,999	851	34.0
\$300,000 to 499,999	839	33.5
\$500,000 to 999,999	382	15.3
\$1,000,000 or more	6	.2
Median value in dollars	\$297,000	

The occupancy characteristics reported by the Census Bureau are shown below.

HOUSING UNITS PER STRUCTURE

UNITS IN STRUCTURE	Number	Percentage
1 unit, detached	2,546	79.4
1 unit, attached	246	7.7
2 units	135	4.2
3 or 4 units	141	4.4
5 to 9 units	31	1.0
10 to 19 units	29	.9
20 or more units	57	1.8
Mobile home	21	.7
Boat, RV, van, etc.	0	0

ROOMS PER STRUCTURE

ROOMS	Number	Percentage
1 room	10	.3
2 rooms	57	1.8
3 rooms	88	2.7
4 rooms	154	4.8
5 rooms	356	11.1
6 rooms	588	18.3
7 rooms	562	17.5
8 rooms	590	18.4
9 or more rooms	801	25.0
Median rooms	7.1	

OCCUPANTS PER ROOM

OCCUPANTS PER ROOM	Number	Percentage
Total occupied housing units	3,139	100
1.0 or less	3,124	99.5
1.01 to 1.50	0	0
1.51 or more	15	.5

HOUSEHOLD AND FAMILY SIZES

HOUSEHOLDS BY TYPE	Number	Percentage
Total Households	3,139	100
Family households	2,458	78.3
With own children under 18 years	1,159	36.9
Married couple family	2,185	69.6
With own children under 18 years	1,057	33.7
Female householder, no husband	196	6.2
With own children under 18 years	81	2.6
Nonfamily households	681	21.7
Householder living alone	570	18.2
Householder 65 or older	227	7.2
Households with under 18 years old	1,202	38.3
Households with 65 years or older	782	24.9
Average household size	2.79	
Average family size	3.19	

NUMBER IN HOUSEHOLD

HOUSING TENURE	Number	Percentage
Occupied housing units	3,139	
Owner occupied	2,687	85.6
Renter occupied	452	14.4
Average household of owner occupied unit	2.97	
Average household of renter occupied unit	2.05	

TERMS USED (US Census Bureau)

Family

A group of two or more people who reside together and who are related by birth, marriage, or adoption.

Family household (Family)

A family includes a householder and one or more people living in the same household who are related to the householder by birth, marriage, or adoption. All people in a household who are related to the householder are regarded as members of his or her family. A family household may contain people not related to the householder, but those people are not included as part of the householder's family in census tabulations. Thus, the number of family households is equal to the number of families, but family households may include more members than do families. A household can contain only one family for purposes of census tabulations. Not all households contain families since a household may comprise a group of unrelated people or one person living alone.

Household

A household includes all the people who occupy a housing unit as their usual place of residence.

Household size

The total number of people living in a housing unit.

2. A projection of future housing construction for the next six years.

The Township went through a lengthy and detailed analysis of buildable land during the fall of 2004. A special subcommittee met, along with the Township Engineer and Township Planner, to develop the "build out" plan to estimate the possible maximum sewer usage and as a means of estimating possible growth as part of the NJ State Plan Cross Acceptance process.

At that time the Township estimated future growth to the year 2020 and reported an estimated 245 additional housing units and 61,607 square feet of commercial, office and industrial space. The Township also estimated that an additional 179 acres would be preserved as open space, primarily in the Great Swamp National Wildlife Refuge, 189 acres would be added to preserved farmlands and 284 acres of vacant land would be preserved.

When reviewing the number of housing units certified and demolitions performed between 1996 and 2007, one finds that 121 housing units were added to the Long Hill housing inventory in that 12 year period. This averages to 10 homes per year.

Reviewing the commercial activity between 1996 and 2007 one finds an additional 214,109 SF of office, retail and commercial space added, or 17,842 SF annually for 12 years.

Based upon the past 12 years, Long Hill Township projects that 60 additional housing units may be built over the next 6 years between 2008 and 2013. Given a possible additional 17,842 SF of commercial space annually, Long Hill projects that an additional 107,052 SF of office, retail and commercial space may be built over the next six years. This will result in a housing obligation that will depend upon the type of space built.

RESIDENTIAL GROWTH 1996 - 2007

YEAR	CERTIFICATES OF OCCUPANCY	DEMOLITIONS	NET HOUSING
1996	21	0	21
1997	12	1	11
1998	19	0	19
1999	16	1	15
2000	18	0	18
2001	16	2	14
2002	17	4	13
2003	5	1	4
2004	13	7	6
2005	9	10	-1
2006	5	1	4
2007	3	6	-3
TOTALS	154	33	121

Source: NJ Department of Community Affairs – Construction Reporter

The above data shows that there has been an increase of 121 dwelling units in the Township between 1996 and 2007, a period of 12 years. These numbers also compare favorable with the Township's "build-out /

2005 State Plan" projections of possibly an additional 245 housing units by 2020.

The residential growth table shows a marked decrease in building starting in 2003. This is due to the voluntary sewer ban announced in 2001 by the Township. Projects already in the pipeline would have been completed in 2002, which is demonstrated by a total very similar to prior years. A steep decline occurs from 2003 to present.

COMMERCIAL GROWTH 1996 - 2007

CERTIFICATES OF OCCUPANCY ISSUED BY SQUARE FOOTAGE

Year	B-Office	M-Retail	A-1	A-2	A-3	Multi	Indust	Storage
1996	0	0	0	0	3758	7610	0	0
1997	1020	2534	0	0	0	0	6460	0
1998	0	0	0	0	0	0	0	0
1999	2063	0	0	0	0	0	0	0
2000	0	7942	0	0	0	0	0	0
2001	2382	0	0	0	0	0	0	0
2002	0	35874	0	0	0	0	0	0
2003	1036	0	0	6006	52560	0	0	0
2004	6850	0	4179	0	5293	0	8640	6000
2005	27704	0	0	0	16115	0	0	1020
2006	3438	0	0	0	0	0	0	5600
2007	0	0	0	0	0	0	0	0
TOTAL	44493	46350	4179	6006	77751	7610	15100	12620

Explanation of Categories

- B Office buildings
- M Mercantile uses
- F Factories (indust)
- S Storage uses
- A-1 Concert halls, TV studios, entertainment venues
- A-2 Night clubs, restaurants, taverns
- A-3 galleries, bowling alleys, funeral parlors, gymnasiums
- Multi Multi family such as hotels and motels

The number of total nonresidential demolition permits issued was extremely small with only 6 permits issued between 1996 and 2007 and all were for office space. Presuming a 1,000 SF average per demolished office, a total of 6,000 SF of office space would be deducted from the 44,493 SF of new office space constructed, for a net total of 38,493 SF of office.

Based upon the past twelve years of growth, future commercial growth seems to be certain. However, given that the economy is in a recession

with no certain recovery in sight, plus the worldwide economic collapse, any growth seems to be contingent upon an economic recovery that may be fragile at best.

3. An analysis of the municipality's demographic characteristics including household size, income level and age.

This data is also taken from the 2000 US Census Bureau figures.

The Census Bureau statistics show an affluent community with an average household size of 2.79 people and with an average family size of 3.19 people. Median household income was \$84,532 with 71.9% of households reporting \$50,000 annual income or more. Although the population increased by 951 people from 7,826 to 8,777 people from 1990 to 2000, the number of people below 18 years old were 2,307 or 26.3% of the population. The number of people over 65 years of age was 1,109 people or 12.6% of the overall population.

AVERAGE SIZE

Average household size	2.79
Average family size	3.19

HOUSEHOLD INCOME IN 1999

	Number	Percentage
HOUSEHOLDS	3,140	100
Less than \$10,000	61	1.9
\$10,000 to 14,999	104	3.3
\$15,000 to 24,999	136	4.3
\$25,000 to 34,999	268	8.5
\$35,000 to 49,999	315	10
\$50,000 to 74,999	435	13.9
\$75,000 to 99,999	446	14.2
\$100,000 to 149,999	573	18.2
\$150,000 to 199,999	379	12.1
\$200,000 or more	423	13.5
Median household income	\$84,532	

FAMILY INCOME IN 1999

	Number	Percentage
FAMILIES	2,477	100
Less than \$10,000	25	1
\$10,000 to 14,999	26	1
\$15,000 to 24,999	65	2.6
\$25,000 to 34,999	148	6
\$35,000 to 49,999	211	8.5
\$50,000 to 74,999	329	13.3
\$75,000 to 99,999	390	15.7
\$100,000 to 149,999	521	21
\$150,000 to 199,999	356	14.4
\$200,000 or more	406	16.4
Median family income	\$103,037	

POPULATION

	Number	Percent
TOTAL POPULATION	8,777	100
Male	4,258	48.5
Female	4,519	51.5
Under 5 years	680	7.7
5 to 9 years	727	8.3
10 to 14 years	617	7
15 to 19 years	410	4.7
20 to 24 years	263	3
25 to 34 years	950	10.8
35 to 44 years	1,788	20.4
45 to 54 years	1,339	15.3
55 to 59 years	529	6
60 to 64 years	365	4.2
65 to 74 years	636	7.2
75 to 84 years	375	4.3
85 years and over	98	1.1
Median age	39.2 years	
18 years and over	6,470	73.7
Male	3,119	35.5
Female	3,351	38.2
21 years and over	6,292	71.7
62 years and older	1,328	15.1
65 years and over	1,109	12.6
Male	498	5.7
Female	611	7

4. An analysis of existing and future probable employment characteristics of the municipality.

EMPLOYMENT STATUS

EMPLOYMENT STATUS	Number	Percent
Population 16 years and older	6,638	100
In labor force	4,559	68.7
Civilian labor force	4,559	68.7
Employed	4,431	66.8
Unemployed	128	1.9
Armed Forces	0	0
Not in labor force	2,079	31.3

US Census

JOB GROWTH 1990-2007

YEAR	LABOR FORCE
1990	4672
1991	4488
1992	4558
1993	4534
1994	4616
1995	4729
1996	4821
1997	4962
1998	4961
1999	5091
2000	4753
2001	4747
2002	4812
2003	4844
2004	4858
2005	4910
2006	4993
2007	4973

NJ Department of Labor

The above job statistics show labor force numbers that seem to run within a fairly narrow range. The 18 year average from 1990 – 2007 is 4795.7 in the labor force, with a low of 4488 and a high of 5091. During the 1990 - 2007 time period, jobs grew from 4672 to 4973 for an increase of 301 jobs, or an average of 17 jobs per year. The 12 year average from 1996 – 2007 is 4893.75, or 80 people less than the 2007 labor force numbers.

Based on the current numbers, it is somewhat difficult to arrive at job growth estimates. Since 1996 the growth in the labor force to 2007 is 152 jobs over a 12 year period, or an average of 13 jobs per year. During this period the labor force had a high number of 5091 and a low one of 4747, for a range of 344 people.

Given the current economic climate it seems reasonable to use the more current figure of 13 jobs per year growth based upon the past 12 years. Over the next six years Long Hill expects an increase of 78 people in the labor force, to a total of 5051.

5. A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate low and moderate income housing.

The efforts made by Long Hill Township over the past two COAH rounds resulted in a credit of 103 units by the end of the second round in 2001.

Due to the credit available to Long Hill, some credits may be used to encourage economic growth, particularly in the retail sector. All additional housing may include affordable housing in appropriate scale developments and smaller scale endeavors may contribute to the proposed Growth Share Fund administered by the Township.

6. A consideration of the lands that are most appropriate for the construction of low and moderate income housing, including structures which may be rehabilitated and lands of developers, if any, who have expressed a commitment to provide low and moderate income housing.

The 1996 Master Plan identified several areas that may accommodate future affordable housing as required by the Township's Growth Share. An undeveloped site on Valley Road in Gillette was slated for a potential 70 units of market rate housing including 14 units of affordable housing. Another undeveloped site, this one on Somerset Street in Stirling, was proposed to have 10 market rate units with 2 units of affordable housing.

Recently, there was an application before the Zoning Board of Adjustment for a mixed use development on Valley Road at the corner of Morristown Road. That application was withdrawn. A similar application may be possible.

Several specific zoning changes are envisioned at this time. The recently adopted Valley Road Business District Master Plan Element called for allowing second floor residential units along Valley Road. The Master

Plan Element also called for allowing growth share residential units to be constructed in this area as well as senior citizen housing. There is also discussion on rezoning the TIFA property near the train station in Millington to allow a mixed use complex to include retail, commercial and residential units.

The Township's partial reliance on Accessory Apartments and Group Homes to provide additional affordable housing units required by the Township's Growth Share is a policy that precludes identification of specific sites. Rather, these additional affordable housing units will be located in established residences.

5. OVERVIEW OF TOWNSHIP AFFORDABLE HOUSING EFFORTS

The Township of Long Hill is proud of its past collaboration with the New Jersey Council on Affordable Housing. Since 1987 the Township has worked strenuously to provide affordable housing despite the restraints of limited available land coupled with environmental constraints. While receiving substantive certification during both previous rounds, the Township today has a credit of 103 units, which may be applied to future growth.

Below is a listing summarizing our activities during the past two rounds.

- | | |
|------------------|---|
| May 1986 | COAH determines that the Township lower income housing need is 198 units. This includes 25 units of indigenous need, 103 units of reallocated present need, 90 units of prospective need and a 20 unit credit for fair share adjustments. |
| 17 February 1987 | Housing Element of Master Plan adopted. This addressed 1987 – 1993 obligation of 198 units. |
| 12 May 1987 | Housing Element amended to reflect COAH requirements. Proposed housing program lists 198 units of pre-credited need and 2 units of rehabilitation credits for 196 total units. |

This was proposed to be accomplished through:

Handicapped/senior citizen	52 units
----------------------------	----------

Accessory apartments	53 units
Inclusionary developments	22 units
Stirling Manor	6 units
Rental units credit	9 units
Rehabilitation	17 units
Regional Contribution Agreement	42 units
Total	196 units

- 2 May 1988 COAH grants certification. Precredited need of 198 units established, to be addressed by providing 179 inclusionary units and 19 indigenous need units.
- 11 May 1994 Township reported on the status of the Fair Share Plan. Of 192 units proposed, 113 units had been created and 20 units were in progress.
- 20 July 1994 Interim certification for nine months following effective date of substantive rules granted by COAH.
- 8 November 1994 Planning Board adopts revised Housing Plan Element.
- 16 February 1995 Long Hill files petition for substantive certification.
- 29 June 1995 COAH issues compliance report. Report states 1987 – 1993 fair share obligation was 196 units with 17 rehab and 179 new construction. Report states 1993 – 1999 need number was 85 units with 23 rehab and 62 new construction. Report found Long Hill had provided 155 units and that the second round obligation was zero with 70 excess credits.
- 2 August 1995 Substantive certification granted by COAH, effective to 2 August 2001. Resolution reflects 1987 – 1999 obligation of 85 units met. 155 units provided through 5 rehab units, 114 new construction units and 36 rental bonus credits. This results in a credit of 70 units.
- 23 July 2001 Township requests interim Substantive Certification from COAH. Township reports excess credits of 103 units.
- 1 August 2001 COAH extended the Township's second round certification to one year following the effective date of third round regulations.

- November 2004 Township reports in its October 2004 Monitoring Report the status of all units.
- 61 units – new construction
 - 42 units – RCA with Newark
 - 13 units – accessory apartments
 - 13 units - rehabilitation
- 50 units were required, 153 units provided, for a credit of 103 units.
- 13 December 2004 The Township applies for a one year extension of substantive certification and commits to applying for third round certification by 20 December 2005.
- 9 February 2005 COAH granted motion for extended substantive certification.
- 13 December 2005 The Township Planning Board adopts the "Housing Element and Fair Share Plan" dated 27 September 2005.
- 14 December 2005 The Township Committee endorsed the Housing Element and Fair Share Plan
- 6 October 2006 COAH issues report requesting additional information.

The first and second round affordable housing obligation of Long Hill Township is zero units. Due to the Township's diligence in creating affordable housing, Long Hill believes that it currently has an affordable housing credit of 103 units. The Township will perform additional research to review the methodology of the 103 unit credit.

The COAH website also summarizes the Township's status under the first two rounds of affordable housing. The listing for Long Hill provides the following information:

COAH status	Certified
Petition date	22 February 1995
Final certification	2 August 1995
Extend Substantive Cert	9 February 2005
1987 – 99 precertified need	85
Rehab	23
New	62
Approved at Certification	
Post 1990 rehab	5
New construct	44
COAH bonus	36
New units in excess of obligation	70

Although the Township surplus number differs from the above analysis, the Township accepts this credit and will use the COAH number at this time in determining future Growth Share affordable housing requirements.

7. CONCLUSION

The Township's Housing Element projects future growth in accordance with Township generated numbers from the 2004 Sewer Build Out Plan, the State Plan Cross Acceptance process and historical construction and labor data between 1996 and 2007, a twelve year period. The Township anticipates that sufficient affordable housing units will be generated by an equitable Growth Share Ordinance. These units will be provided in accordance with the Fair Share Plan Section of the Housing Element.

C. FAIR SHARE PLAN

1. INTRODUCTION

A Fair Share Plan is essentially a recommendation by the Planning Board to the Township Committee as to how the Township should fulfill the fair share obligation. The plan should be readily convertible into ordinances for implementation. If the Township Committee endorses the plan and continues the Township's participation in COAH's administrative process, the Committee must enact municipal ordinances to implement participation in COAH's administrative process and also enact municipal ordinances to implement the plan within a specified period of time when substantive certification is granted. In this Third Round certification, the deadline is 31 December 2008. Subsequently, COAH monitors the Township's compliance with the plan.

2. STRATEGIES

Listed below are the strategies proposed by the Planning Board to meet the Growth Share obligations of the Third Round.

A. USE OF EXISTING CREDITS

The Township accepts the 70 unit credit that COAH has assigned, yet the Township will research the previous credit of 103 units to see if that credit is available to the Township.

For the purpose of completing this document, the Township will accept the 70 unit credit and proposes to apportion that credit towards future growth. The Township proposes to use 30 of the 70 available credits towards the 50 units required for the COAH estimated proposed job growth of 803 jobs with a need for 50 housing units. The Township further proposes to use 20 of the remaining credits towards the housing unit growth of 411 homes with an affordable component of 82 affordable housing units. The remaining 20 credits will be banked.

This leaves 62 affordable housing units to be provided through the Growth Share process.

B. REHABILITATION OF EXISTING HOMES

Although the COAH rehabilitation obligation is zero rehabilitation units, the Township should encourage rehabilitation of substandard units as they

become known to the Township to accommodate a small portion of the Township's Growth Share. The Township proposes that 5 housing units will be rehabilitated during the Growth Share process.

The rules concerning a Rehabilitation Program are:

Rehabilitation Program

(N.J.A.C. 5:97-6.2)

- Program to renovate "deficient" (below code) housing units occupied by low-or moderate-income households — must include major system
- Available to both owner-occupied and renter-occupied units
- Minimum average investment: \$10,000 / unit
- 10-year affordability controls

B. ACCESSORY APARTMENTS

The Township's noted success with accessory apartments during the past two COAH rounds has been well documented. There is good reason to believe that future Growth Share may be partially accommodated through additional accessory apartments. The Township proposes that 5 housing units will be provided as Accessory Apartment during the Growth Share process.

The rules concerning Accessory Apartments are:

Accessory Apartment Program

(N.J.A.C. 5:97-6.8)

- Self-contained residential dwelling unit with kitchen, sanitary facilities, sleeping quarters and private entrance
- Created within an existing home OR through the conversion of an existing accessory structure on the same site OR by an addition to an existing home or accessory building
- Minimum subsidy is \$20,000 per moderate-income unit or \$25,000 per low-income unit.
- May be designed to produce only low-income units, only moderate-income units or both low- and moderate-income units.
- Maximum of 10 units or 10% of fair share obligation, whichever is greater, until viability of program is documented
- Adequate water/sewer infrastructure with sufficient capacity (including individual well and/or septic system)
- 10 year controls on affordability

C. GROUP HOMES

The Township wishes to encourage the establishment of a group home to accommodate a portion of the population in need of housing and to address the need of local residents. A group home for the Developmentally Disabled, purchased and administered by a professional mental health provider, may be part of the Township's strategy to meet its Fair Share obligation. Other group homes may be considered depending upon available land, resources and providers.

The Township proposes one group home with five bedrooms for a total of 5 units.

The rules concerning Group Homes are:

Supportive and Special Needs Housing

(previously known as alternative living arrangements)

(N.J.A.C. 5:97-6.10)

- Structure in which individuals and households reside, including:
- Residential health care facilities
- Group homes for the developmentally disabled and mentally ill
- Permanent supportive housing
- Supportive shared living housing
- Long term health care facilities and boarding homes not eligible
- Count toward rental obligation
- Bedroom is unit of credit except for permanent supportive housing (unit of credit is unit)
- 18 and over
- Affirmatively marketed to individuals with special needs
- 30-year controls on affordability

D. AGE RESTRICTED HOUSING

A municipality may use age restricted housing to satisfy up to 25% of the Township's Growth Share obligation. With age restricted housing already a success story in the Township, this is a strategy that should be pursued to create additional affordable housing. The Valley Road Business District Master Plan Element has proposed senior citizen housing in the Valley Road corridor.

The Township also proposes to add additional units at the existing senior citizen / handicapped housing development at Lounsberry Meadows.

The Township proposes that 33 units will be added as part of the Growth Share process.

E. INCLUSIONARY DEVELOPMENT

The Township should provide through a new Development Ordinance that each new residential development of more than 4 units be required to include affordable housing as part of their development. Affordable housing shall be provided at the rate of one affordable unit for every four market rate units. For other developments, a developer shall pay a fee through the Development Fee Ordinance, or may choose to provide a unit of affordable housing.

Several areas of the Township are proposed for inclusionary development, such as the newly designated Valley Road Business District, which encourages residential uses on the second floor of mixed use buildings and senior citizen housing. The TIFA complex is also proposed for inclusionary zoning as that property is redeveloped into a transit oriented mixed use development.

The Township proposes that 24 units will be accommodated through inclusionary growth in the Valley Road Business District and that 10 units will be accommodated through the TIFA mixed use project.

Inclusionary zoning

(N.J.A.C. 5:97-6.4)

- Municipalities may adopt zoning provisions that require certain types of development to provide for on-site construction of affordable housing
- Payment-in-lieu-of-construction option:
- Funds collected from developers in place of constructing affordable units
 - Must be used to create affordable housing elsewhere in municipality
 - Based on cost of subsidizing new affordable unit within municipality
 - Site suitability must be demonstrated
 - Appropriate access
 - Minimal environmental constraints
 - Adequate sewer and water
 - Presumptive densities
 - Based on SDRP Planning Areas
 - Affordable housing requirement related to actual growth

F. HIGHLANDS AREA TRANSFER OF DEVELOPMENT RIGHTS

Long Hill Township is actively seeking information concerning the Highlands Region Transfer of Development Rights program. This would allow Long Hill to receive credit for the Highlands TDR program, bringing development to the Township in areas that are zoned for and appropriate for additional growth. While no credits are proposed at this time for Highlands Area growth, the Township will investigate this matter thoroughly and will revise this Fair Share Plan in the future should it become desirable to do so.

The rules concerning the partnership program are:

Affordable housing partnership program

(N.J.A.C. 5:97-6.13)

- Voluntary agreement by which a municipality cooperates with other municipalities, planning and redevelopment authorities, non-profit organizations and/or regional planning commissions (such as the Fort Monmouth Economic Revitalization Authority, the New Jersey Meadowlands Commission and the Casino Reinvestment Development Authority) to build low- and moderate-income housing units
- All participating municipalities and their partner agency must be located within the same housing region, and within any statutorily defined jurisdictional boundaries
- The municipalities and/or partner agency must set forth the number of credits each municipality will be allotted by formal agreement
- Each municipality and/or partner agency must contribute resources, including, but not limited to, funding, sewer, water, land, etc. to make the project work
- No municipality may permit more than 50 percent of its affordable housing obligation to be constructed in another municipality

G. DEVELOPMENT FEE ORDINANCE

The Township requires through a Development Fee Ordinance that all new development in the Township meet the Growth Share requirement generated by their particular development. The Development Fee Ordinance was passed by the Township Committee on 2 October 2008.

The Ordinance provides for fees to be paid into the Affordable Housing Trust Fund of 2.5% of equalized assessed value for nonresidential activity and 1.5% for residential development.

H. AFFORDABLE HOUSING REGULATIONS

The Township is cognizant of the Third Round rules for Growth Share which require:

- One affordable unit for every four market rate units
- One affordable unit for every 16 jobs created
- At least 25% of the Growth Share must be provided through rental housing
- Rental units over the number required may receive additional credit
- At least 13% of the Growth Share units must be affordable to very low income households.
- At least 50% of the Growth Share must be provided through family units.
- The maximum age restricted Growth Share units is 25%

I. AFFORDABLE HOUSING ORDINANCE

Long Hill Township anticipates adopting the COAH model Affordable Housing Ordinance after introduction in the Governing Body shortly after the beginning of 2009. COAH will be provided with a copy of the Ordinance upon passage.

3. SUMMARY

The Township looks forward to meeting its Growth Share obligation through a mixture of strategies. It is the Planning Board's belief that such a wide range of policies offer the most options to the Township to meet its future Growth Share.

Future growth in the Township will be responsible for providing for the Growth Share generated by each development. The Township believes that this plan can be implemented and that it will meet the requirements of COAH for Third Round certification.

Strategy	Units
Rehabilitation	5
Accessory Apartment	5
Group Homes	5
Age Restricted Housing	33
Inclusionary Development	34

Above is a table showing the proposed strategies based on a Growth Share obligation of 82 units left after the 50 credits are utilized.