

Borough of Allendale

June 25, 2015

Resolution 15-214

RESOLUTION AUTHORIZING BOROUGH COUNSEL FOR THE BOROUGH OF ALLENDALE (the "BOROUGH") AND OTHER BOROUGH PROFESSIONALS TO PREPARE AND FILE A DECLARATORY JUDGMENT ACTION FOR THIRD ROUND *MT. LAUREL* COMPLIANCE AND IMMUNITY, AND AUTHORIZING OTHER BOROUGH PROFESSIONALS AND OFFICIALS TO TAKE SUCH ACTIONS AS MAY BE APPROPRIATE TO IMPLEMENT AN UPDATE TO THE BOROUGH HOUSING PLAN ELEMENT OF THE MASTER PLAN AND FAIR SHARE PLAN FOR THIRD ROUND *MT. LAUREL* COMPLIANCE.

WHEREAS, on December 31, 2008, the Borough petitioned COAH for substantive certification for a third round housing element and fair share plan adopted by the Borough on December 29, 2008, addressing its third round fair share obligation consisting of three components pursuant to COAH's revised third round regulations; and

WHEREAS, on October 5, 2009 COAH approved the Borough's third round spending plan; and

WHEREAS, on October 14, 2009 COAH granted the Borough third round substantive certification; and

WHEREAS, on November 27, 2009, the Borough adopted and submitted the required implementing documents to COAH per the October 14, 2009 third round certification resolution; and

WHEREAS, on April 15, 2010, the Borough adopted an amendment to its third round certified housing element and fair share plan and to its COAH approved third round spending plan; and

WHEREAS, on October 6, 2010, COAH approved the Borough's amended third round spending plan; and

WHEREAS, the Supreme Court of New Jersey invalidated the growth share methodology and COAH's Third Round regulations at *N.J.A.C. 5:96 & 5:97* in its decision captioned *In re Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council of Affordable Housing*, 215 *N.J.* 578 (2013); and

WHEREAS, on March 10, 2015 the Supreme Court issued an order eliminating the administrative processes afforded municipalities by the Fair Housing Act N.J.S.A. 52:27D-301 *et. seq.*, effective June 8, 2015; and

WHEREAS, the Superior Court of New Jersey must calculate the Borough's third round fair share obligation; and

WHEREAS, the Supreme Court provided for a thirty day window after June 8, 2015, during which time many municipalities will be able to file declaratory judgment actions in

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Superior Court to obtain, in practical effect, a judicial version of the substantive certification they had either received or applied for under N.J.S.A. 52:27D-313; and

WHEREAS, the Borough wishes to file a new declaratory judgment action pursuant to the process set forth in the Supreme Court's March 10, 2015 Order; and

WHEREAS, throughout and notwithstanding the period of uncertainty over new Third Round Rules, the Borough has continued efforts to provide for low and moderate income housing opportunities within the Borough; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Allendale, County of Bergen, and State of New Jersey, as follows:

1. Borough Counsel is authorized to prepare and file a Declaratory Judgment action in the Superior Court on behalf of the Borough seeking a judgment of compliance and/or repose with the Borough's Third Round affordable housing obligation once such obligations are defined, and also seeking an order of immunity from Mt. Laurel builder remedy lawsuits during the process of adopting and filing the Housing Plan Element and Fair Share Plan with the Court, as well as during the period of Court review of the Borough's plan and all implementing ordinances.
2. Borough Counsel, Borough Engineer and other Borough professionals along with members of their respective firms, and appropriate Borough Officials are authorized to take such as actions as may be appropriate to further both the preparation and implementation of the updated Housing Plan Element of the Borough's Master Plan and Fair Share Plan for Third Round Mt. Laurel Compliance.
3. This Resolution shall take effect immediately.

	Motion	Second	Yea	Nay	Absent	Abstain
Bernstein			✓			
Homan					✓	
McSwiggan					✓	
Sasso		✓	✓			
Strauch			✓			
Wilczynski	✓		✓			
White						

I hereby certify the above to be a true copy of a Resolution adopted by the Governing Body of the Borough of Allendale on June 25, 2015


 Deborah L. Fehre, RMC
 Interim Municipal Clerk


 Mayor Elizabeth White