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**TOWNSHIP OF MILLBURN**

**NOTICE OF MOUNT LAUREL COMPLIANCE HEARING ON THE HOUSING ELEMENT AND  
FAIR SHARE PLAN OF THE TOWNSHIP OF MILLBURN, COUNTY OF ESSEX**

**Docket Number: ESX-L-2778-18**

**PLEASE TAKE NOTICE** that, on February 28, 2023, beginning at 1:30 p.m. the Honorable Cynthia D. Santomauro, J.S.C. will conduct a “Compliance Hearing” in the In The Matter of the Application of the Township of Millburn in Essex County, bearing Docket No. ESX-L-2778-18 (“the Action”) at the Essex County Historic Courthouse located at 470 Martin Luther King Jr. Blvd., 4th Floor, Newark, New Jersey 07102.

Any person who wishes to participate in the Compliance Hearing should check njcourts.gov for updated information and contact the Court directly at (973) 776-9524. In addition, such a person may also contact the Township Clerk at (973) 564-7073 or the office of Antonelli Kantor Rivera at 908-623-3676 at least 48 hours in advance of the hearing to determine how they can participate.

The purpose of the Compliance Hearing is for the Court to determine whether the Housing Element and Fair Share Plan (hereinafter “Affordable Housing Plan”) of the Township of Millburn (the “Township”) satisfies the Township’s obligation to provide a realistic opportunity for satisfaction of its “fair share” of the regional need for housing affordable to low- and moderate-income households, which includes the Township’s Rehabilitation, Prior Round, and Round 3 obligations. The fair share has been established based upon the Fair Housing Act (“FHA”), N.J.S.A. 52:27D-301 et seq., and other applicable laws, and is memorialized in the Settlement Agreement entered into between Fair Share Housing Center (“FSHC”) and the Township of Millburn, approved by the Court at a properly-noticed Fairness Hearing held on January 28, 2022, and memorialized by an approval order filed by the Court on March 2, 2022. If the Court determines that the Township has satisfied its obligation to provide a realistic opportunity to satisfy its “fair share,” it will enter a Final Round 3 Judgment of Compliance and Repose, which among other things, will provide Millburn legal protection (repose) from all Mount Laurel exclusionary zoning lawsuits through July 2, 2025.

The Township has presented to the Court, and placed on file with the Township Clerk, a copy of the Affordable Housing Plan, along with various other related documents, which includes crediting information. These documents are available for public inspection at the office of the Township Clerk located at 375 Millburn Avenue, Millburn, New Jersey 07041 during normal business hours. You may contact the Township Clerk at (973) 564-7073, during normal business hours, to request a copy of the documents be sent to you. In addition, you may contact Jarrid H. Kantor, Esq. to request a copy of these documents be sent to you; his contact information is listed below.

The Township’s Affordable Housing Plan and terms of the Settlement Agreement with Fair Share Housing Center include, but are not limited to, the following:

1. The Township’s Present Need Obligation is 109
2. The Township’s Prior Round Obligation is 261
3. The Township’s Round 3 Obligation is 1115
4. The Township will address its Prior Round Obligation of 109 as follows:
  - a. Participate in Essex County Rehabilitation Program and to supplement the Essex County Program, the Township will establish a housing rehabilitation program and make funds available for the rehabilitation of rental units

5. The parties agree that the Township is eligible for a vacant land adjustment and has a Realistic Development Potential (“RDP”) of 114. The Township intends to satisfy that 114 unit RDP as follows:
  - a. 30 affordable units and 29 rental bonus credits at the Canoe Brook Site (Block 5303 Lots 1, 3 and 4)
  - b. 12 affordable units at the Silverman Group/85 Woodland Avenue LLC Site (Block 1904 Lot 72-75)
  - c. 8 affordable units at the Wells Fargo Site (Block 1211 Lots 1 and 7)
  - d. 30 affordable units at the 249 Millburn Ave. LLC/”Annie Sez” Site (Block 705 Lot 1)
  - e. 5 affordable special needs housing units at either the United Jewish Federation (90 Undercliff Rd.) and/or Essex County ARC (81 Willow St.) Sites
6. The 114 units/credits to be created as set forth above, subtracted from the Prior Round and Third Round Obligation of 1376 units, results in an unmet need of 1262 units which shall be addressed as follows:
  - a. The adoption of Overlay Zoning Ordinances for the following six (6) Overlay Districts at the prescribed residential density and requiring 20% set-aside of affordable housing:
    - i. C Zone (Canoe Brook Country Club) – 8 development units per acre (“du/a”). The parties agree that this 129-acre parcel may be developed with up to 50% age-restricted housing as to both the market-rate and affordable units.
    - ii. B-2 Zone (all properties in the portion of the B-2 zone that has its southern boundary Morris Turnpike) – 18 du/a
    - iii. B-2 Zone (between Millburn Avenue and rail tracks from Myrtle Ave. to Essex St.) – 40 du/a
    - iv. B-4 Zone (entirety of zone) – 25 du/a
    - v. CMO Zone (entirety of zone) – 18 du/a
    - vi. OR-1 Zone (Block 5302 Lot 1) – 20 du/a
  - b. In addition to the Overlay Zoning set forth above, the Township will place overlay inclusionary zoning on a portion of property located at Block 5302, Lot 5 (Woodmont Property) currently owned by New Jersey American Water Company (NJAWC) to permit up to 195 units of rental housing and require a 20% set-aside of 39 units for affordable housing.
  - c. The Township will sponsor a 100% affordable development of at least seventy-five (75) new family non-age-restricted rental units. The Township has proposed that the site of this development may be on a portion of the Township-owned, ± 4.57-acre DPW Facility located at 345 Millburn Avenue and the NJ Transit railroad tracks (Blocks 1207, Lots 7 and 9) (“DPW Site”), with the operations of the DPW Facility being condensed on another portion of the site.
  - d. The adoption of a Mandatory Set-Aside Ordinance that will require a set-aside of 20% for all new multi-family residential development of 5 or more units that become permissible through a use variance, density variance, rezoning or new redevelopment plan.
7. Fair Share Housing Center agrees that the Prior Round and Third Round Prospective Need obligation and the manner of satisfying it as summarized above fully and set forth in more detail in the Settlement Agreement satisfies the Township’s responsibilities regarding its affordable housing obligations under the applicable law.
8. The parties have agreed that should the Township’s Third Round Prospective Need obligation be reduced by more than 10 percent as a result of the application of an opinion or decision by any Court or administrative agency having jurisdiction, the Township can seek to reduce its Third Round Prospective Need obligation accordingly.
9. Upon the Court’s determination that the Township has satisfied its obligation to provide a realistic opportunity to satisfy its “fair share,” it will enter a Final Round 3 Judgment of Compliance and Repose, which among other things, will provide Millburn legal protection (repose) from all Mount Laurel exclusionary zoning lawsuits through July 2, 2025.

Any interested party may file written comments on, or objections to, the Township’s Affordable Housing Plan. Objections must provide: (a) a clear and complete statement as to each aspect of the Township’s Affordable Housing Plan contested by the objector; (b) an explanation of the basis for each objection; and (c) copies of all such expert reports, studies, or other data relied upon by the objector, along with a list of witnesses the Objector

intends to call during the Compliance Hearing. In order for an objector witness to testify during the Compliance Hearing, an accompanying written expert report must be filed with all interested parties by the deadline below.

Such comments or objections, together with copies of any supporting affidavits, expert reports, or other documents, must be filed in writing by February 14, 2023, with the Honorable Cynthia D. Santomauro, J.S.C. at the Essex County Superior Courthouse located at 470 Martin Luther King Jr. Blvd., 4th Floor, Newark, New Jersey 07102, with copies of all papers being forwarded by mail or e-mail to:

- Elizabeth McManus, PP, AICP, LEED AP Kyle & McManus Associates 2 East Broad Street, Second Floor Hopewell, NJ 08525 bmcmanus@kylemcmanus.com
- Alex McDonald, Administrator Township of Millburn 375 Millburn Avenue, Millburn, NJ 07041 amcdonald@millburntp.org
- Jarrid H. Kantor, Esq., Antonelli Kantor Rivera, 354 Eisenhower Parkway, Suite 1000, Livingston, New Jersey jkantor@akrlaw.com
- Joshua Bauers, Esq.; Adam Gordon, Esq. Fair Share Housing Center 510 Park Boulevard Cherry Hill, NJ 08002 jbauers@fairsharehousing.org
- Derek W. Orth, Esq. Inglesino, Webster, Wyciskala & Taylor, LLC 600 Parsippany Road, Suite 204 Parsippany, New Jersey 07054, dorth@iwt-law.com
- Thomas F. Carroll, III, Esq. Hill Wallack LLP, 21 Roszel Road P.O. Box 5226, Princeton, New Jersey 08543 TCARROLL@HILLWALLACK.COM
- Francis J. Banisch, II (Special Master) Banisch Associates, Inc. 111 Main Street, Flemington, NJ 08822 frankbanisch@banisch.com

This Notice is intended (a) to inform all interested parties of the existence of an Affordable Housing Plan adopted by the Millburn Planning Board and to be endorsed by the Township, and of documents on file that explain the specific manner in which the Township proposes to address its “fair share” of affordable housing; and (b) to explain the consequences of court approval of the Township’s Affordable Housing Plan; namely; immunity from any Mount Laurel lawsuits through July 2, 2025. This Notice does not indicate any view by the Court, the Special Master, the Township, or Fair Share Housing Center as to whether the Court will approve the manner in which the Township proposes to satisfy its fair share.

Dated: 1/19/2023

Christine Gatti, Township Clerk