

**PREPARED BY THE COURT**

IN THE MATTER OF THE  
APPLICATION OF THE  
MUNICIPALITY OF  
PRINCETON, THE COUNTY  
OF MERCER,

Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – MERCER COUNTY  
DOCKET NO. L-207-25

CIVIL ACTION

**DECISION AND ORDER  
APPROVING MUNICIPAL  
HOUSING ELEMENT AND FAIR  
SHARE PLAN FOR THE FOURTH  
ROUND HOUSING CYCLE**

**PETITIONER**

**Municipality of Princeton**

Kevin A. Van Hise, Esq.

Clayton R. Paley, Esq.

Mason, Griffin & Pierson, P.C.

101 Poor Farm Road

Princeton, NJ 08540

**CHALLENGERS**

**Fair Share Housing Center**

Joshua D. Bauers, Esq.

1 Ethel Lawrence Blvd.

Mt. Laurel Township, NJ 08054

**Wilentz, Cleaves, and McPherson**

Bruce I. Afran, Esq.

10 Braeburn Drive

Princeton, NJ 08540

**Princeton Coalition for Responsible  
Development, Inc.**

Robert Simon, Esq.  
Herold Law  
25 Independence Boulevard  
Warren, NJ 07059

**INTERVENOR**

**Princeton Theological Seminary**

Bradley L. Mitchell, Esq.  
Kevin J. Moore, Esq.  
Stevens & Lee  
510 Carnegie Ctr. Dr., Suite 400  
Princeton, NJ 08540

**THIS MATTER**, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on (“DJ Complaint”) by the Petitioner (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

**AND THE COURT**, having entered its Decision and Order Fixing Municipal Obligations for “present need” and “prospective need” for the Fourth Round Housing Cycle on March 25, 2025 for the Municipality – specifically, a “present need” obligation of sixty affordable housing units, and a “prospective need”

obligation of 276 affordable housing units (collectively, the “Fourth Round Affordable Housing Obligation”);

**AND IT APPEARING** that, the Municipality adopted Resolution # R-25-230 on June 26, 2025 thereby adopting its proposed Housing Element and Fair Share Plan (“HEFSP”) for the implementation of its Fourth Round Affordable Obligation, and thus by or before June 30, 2025, as provided for and in accordance with the FHA and Section III.A of Directive #14-24 (as amended), and which Plan contained the elements set forth in the “Addendum” attached to Directive #14-24 (as amended);

**AND IT APPEARING** that, a challenge to the Municipality’s HEFSP (“Challenges”) was timely and properly filed by Fair Share Housing Center (“FSHC”), the Princeton Coalition for Responsible Development, Inc. (“PCRD”), and Sean Wilentz, Caroline Cleaves, and James M. McPherson (“WCM”) (collectively, the Challengers), by and through counsel, in accordance with the FHA and Section III.B of Directive #14-24, wherein the Challenger disputed, in whole or in part, certain compliance mechanisms and/or other aspects of the Municipality’s proposed HEFSP, as set forth in the Challenge, with the Challenge supported by its own expert report;

**AND IT APPEARING** that the Municipality and Challenger FSHC entered into a settlement agreement on June 26, 2025, that resolved the Municipality’s

Fourth Round affordable housing obligations, as well as its prior round unmet need obligation, and that agreement having been filed on July 14, 2025;

**AND IT APPEARING** that this Court permitted Princeton Theological Seminary to intervene in the matter on October 2, 2025, to respond to the Challengers and to participate in the Program's settlement conferences;

**AND IT APPEARING** that, pursuant to the Program, the Administrative Office of the Courts ("AOC") appointed and assigned the case to Program member, the Hon. Thomas C. Miller, J.S.C. (Ret.) ("Program Member") to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC's Directive #14-24, and that the Program Member appointed Christine A. Nazzaro-Cofone, AICP, PP, an independent affordable housing expert, as special adjudicator ("Special Adjudicator") in this case to work with, make recommendations to and assist the Program, and who worked closely with the Program Member;

**AND IT APPEARING** that, on October 3, 2025 and December 8, 2025, the Program Member conducted settlement conferences in accordance with the statutory framework and Directive #14-24, and with the goal of reaching a resolution;

**AND IT APPEARING** that, as a result of the settlement conferences conducted, the Municipality and the Challenger FSHC reached a partial settlement ("Settlement"), the terms of which are memorialized in the Program's decision

recommendation, specifically that the Municipality's present need (rehabilitation) obligation is 60 units, the Municipality's Prospective Need Obligation (2025-2035) is 364 units; the Municipality's Third Round Obligation (1999-2025) is 753 units, with the Municipality satisfying its Prior Round and Fourth Obligation as specified in the Program's decision recommendation;

**AND IT APPEARING** that the Program Member conducted a session on December 5, 2025, during which it heard oral argument on the remaining Challengers' arguments;

**AND THE COURT**, having received the Program Member's report dated February 10, 2026, since posted to the eCourts jacket for this matter at Trans. ID: LCV2026335520, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

**AND THE COURT**, having been advised that (i) the Special Adjudicator has recommended acceptance of the Settlement, (ii) the Program Member has recommended acceptance of the Settlement as reasonable and in furtherance of the interests of low- and moderate-income households in the Municipality (collectively, the "Recommendations"), that (iii) the Program Member further recommends that the Court adopt the findings and recommendations set forth in the Report and enter an Order, *forthwith*, implementing the terms of Settlement and thereby formally approve the Municipality's HEFSP (as amended) to implement the terms of the

settlement, as well as implementing ordinances and resolutions proposed within the Amended HEFSP, and (iv) that the Court enter an order dismissing the challenges of the non-settling interested parties;

**AND THE COURT**, having reviewed and considered the Program Member's Report and Recommendations, having been satisfied that an arm's length Settlement was reached and entered into by and between the parties, and having found and determined that the proposed HEFSP (as amended) is fair and equitable, shall provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the Municipality, and thereby in their best interests, and for good and sufficient cause having otherwise been shown:

**IT IS** on this 13th day of February 2026 **ORDERED** that the Program Member's Report and Recommendations for approval of the Settlement and the HEFSP of the Municipality as amended, be, and the same hereby is **ACCEPTED** and **ADOPTED** in its entirety; and to that end, more specifically, it is further **ORDERED** that:

1. The Court **APPROVES** the terms of the settlement between the Municipality and Challenger FSHC.
2. The Court **DISMISSES** the challenges of the non-settling parties WMC and PCRD.

3. The endorsed HEFSP of the Municipality for the Fourth Round housing cycle previously filed in accordance with the requirements of the FHA and Directive #14-24 (as amended), be, and the same hereby is **APPROVED** by the Court.
4. The Petitioner is hereby immediately authorized to proceed, without further delay, to notice and adopt the implementing ordinances and resolutions proposed to ensure implementation of its Fourth Round HEFSP, incorporating therein any changes from the Program and this Court's Order, and on or before **MARCH 15, 2026**, whereupon the Court will schedule a Fairness and/or Compliance Hearing to consider approval of the Municipality's Amended HEFSP and the issuance of a Certification of Compliance and Repose from builder's remedy and/or exclusionary zoning litigation in the Fourth Round housing cycle and the period of 2025 to 2035.
5. **NOTICE:** Failure to meet the March 15 deadline shall preclude the Court's issuance of a Certification of Compliance and Repose as required by the FHA and Directive #14-24 (as amended), and the thereby result in the Municipality losing immunity from exclusionary zoning litigation.

6. This order shall be deemed filed and served upon uploading to eCourts.

/s/ Robert Lougy

ROBERT LOUGY, A.J.S.C.

**PER RULE 1:7-4, THE COURT PROVIDES THE FOLLOWING STATEMENT OF REASONS AND CONCLUSIONS OF LAW.**

Having reviewed and considered the Program Member's Report and Recommendations, including the recommendations of Ms. Nazzaro-Cofone, in her capacity as Special Adjudicator, and the terms of the settlement agreement between the Municipality and FSHC, the Court is satisfied that an arm's length Settlement was reached and entered into by and between the parties, and that the terms of the Settlement attained are fair and equitable, the proposed HEFSP as amended is fair and equitable, shall provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the Municipality, and thereby in the best interests of the protected class of low- and moderate-income households in the Municipality. This Settlement disposes of FSHC's challenge.

The Court also rejects the challenges lodged by WCM and PCRD for the reasons as stated in the Program Member's Recommendation and Statement of Reasons.

Accordingly, the Court hereby adopts in full the Report and Recommendations of the Program Member and accepts the same for the detailed



findings and reasons set forth therein. As a result, the Municipality retains all the protections of the above-referenced amendments to the FHA, continues to retain immunity from exclusionary zoning litigation, and that the Court retains jurisdiction for the Municipality's adoption of implementing ordinance in accordance with the statutory framework and AOC Directive #14-24, by or before March 15, 2026, and thereupon, the conduct of a fairness hearing and the Court's issuance of a Certification of Compliance.

An appropriate form of Order implementing the Program Member's Report and Recommendations accompanies this statement of reasons.