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Attorneys for Petitioner, Wenonah Borough

IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
WENONAH, A Municipal Corporation of
the State of New Jersey,

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
GLOUCESTER COUNTY
DOCKET NO.

CIVIL ACTION
(Mount Laurel)

**COMPLAINT FOR DECLARATORY
JUDGMENT PURSUANT TO
N.J.S.A. 52:27D-313**

The Borough of Wenonah, a Municipal Corporation of the State of New Jersey, having its principal place of business at 1 South West Avenue Wenonah, NJ 08090, by way of Complaint for Declaratory Judgment pursuant to N.J.S.A. 52:27D-313 and N.J.S.A. 2A:16-50 *et seq.* says:

BACKGROUND

1. Petitioner Borough of Wenonah (hereinafter “Petitioner” and/or “Wenonah” and/or “Borough”) is a body politic and corporate organized under the laws of the State of New Jersey.

2. On March 20, 2024, the New Jersey Legislature adopted P.L. 2024, c. 2, which amended the Fair Housing Act (FHA) (N.J.S.A. 52:27D-302 *et seq.*), abolished the Council of Affordable Housing (“COAH”), promulgated procedures and guidelines implementing the Affordable Housing Alternate Dispute Resolution Program (the “Program”), and created a new

process for municipalities to come into constitutional compliance with their affordable housing obligations.

3. Wenonah is located in Gloucester County in Region 5 pursuant to the N.J.S.A. 52:27D-304.2.

4. Pursuant to first, second, and third round obligations, Wenonah has provided for affordable housing through an special needs housing, an established accessory apartment program, and adopted inclusionary zoning. Wenonah has made a good faith effort to meet its first, second, and third round affordable housing obligations.

5. Pursuant to N.J.S.A. 52:27D-304.1(d), the Department of Community Affairs (the “DCA”) is responsible for providing a report setting forth non-binding calculations of regional and municipal affordable housing need for the Fourth Round based on the provisions of N.J.S.A. 52:27D-304.2 and -304.3.

6. Pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), participating municipalities must adopt and file resolutions calculating their housing obligations for the Fourth Round by January 31, 2025.

7. P.L. 2024, c. 2 established the Program within the New Jersey Judiciary for the purpose of resolving disputes associated with municipal affordable housing obligations and compliance. In furtherance of that end, the Administrative Director of the Courts issued Directive #14-24 on December 13, 2024 directing municipalities to file declaratory judgment actions seeking certification of municipal compliance with the FHA within 48 hours of adoption of a resolution establishing the municipality’s fair share obligation.

8. On or about October 18, 2024, DCA issued a report entitled “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background.” (the “DCA Report”).

9. Pursuant to the DCA Report, the Fourth Round affordable housing obligations calculated for East Amwell are as follows:

Present Need: 0

Prospective Need: 29

10. On January 23, 2025, Wenonah adopted a Resolution accepting the obligations in the DCA Report as its affordable housing obligations for the Fourth Round. A copy such resolution is attached hereto as Exhibit A.

11. Wenonah desires that the Court review and accept the municipal fair share obligation of Wenonah as set forth in the Resolution attached hereto as Exhibit A, subject to Wenonah’s right to adjust its fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law;

12. In compliance with P.L. 2024, c. 2, Wenonah shall draft and file a Housing Element and Fair Share Plan demonstrating compliance with the Fourth Round affordable housing obligations and applying any adjustments to its fair share obligation consistent with applicable law and regulations.

13. After such filing, Wenonah desires that the Court review and accept its Housing Element and Fair Share Plan and adjustments to its fair share obligation and approve the Program’s issuance of a Certificate of Compliance.

COUNT ONE

(DECLARATORY RELIEF, CONSTITUTIONAL COMPLIANCE)

14. Wenonah repeats and realleges each and every allegation set forth in Paragraphs 1-13 of this Complaint as if set forth herein at length.

15. Pursuant to the Declaratory Judgments Act, N.J.S.A. 2A:16-50 et seq., N.J.S.A. 52:27D-313, and P.L. 2024, c. 2, Wenonah has a right to a declaratory judgment verifying and confirming Wenonah's full compliance with its constitutional affordable housing obligations

WHEREFORE, Petitioner, the Borough of Wenonah, respectfully seeks that the Court grant the following relief:

a. An Order exercising jurisdiction over the compliance by the Borough of Wenonah with its constitutional affordable housing obligations; and

b. An Order declaring, pursuant to N.J.S.A. 52:27D-304.1(f), that the affordable housing obligations set forth by Wenonah Borough in the Resolution dated January 22, 2025 are established; and

c. An Order declaring that the Borough of Wenonah is under the Court's voluntary compliance declaratory judgment jurisdiction and that the Borough is immunized and protected against builder's remedy litigation and exclusionary zoning challenges; and

d. An Order declaring that the Borough of Wenonah's Housing Element and Fair Share Plan, including its spending plan, satisfactorily addresses its affordable housing mandates and provides the Borough with immunity and repose against builder's remedy litigation and exclusionary zoning challenges for a period of ten (10) years from the date of the Final Judgment.

e. A Judgment of Compliance and Repose for a period of ten (10) years from

its date of entry.

f. An Order granting such additional relief as the Court deems equitable and just.

GEBHARDT & KIEFER, P.C.
Attorneys for Petitioner, Borough of Wenonah

By /s/ Tara Ann St. Angelo
TARA ANN ST. ANGELO

Dated: January 24, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Tara Ann St. Angelo, Esq. is hereby designated as Trial Counsel for Petitioner Borough of Wenonah.

GEBHARDT & KIEFER, P.C.
Attorneys for Petitioner, Borough of Wenonah

By: /s/ Tara Ann St. Angelo
TARA ANN ST. ANGELO

Dated: January 24, 2025

CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby certified that the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration or administrative proceeding to the best of knowledge and belief. Wenonah Borough filed a declaratory judgment action related to its Third Round affordable housing obligations (*IMO Wenonah Borough*, Docket No. GLO-L-896-15). Such action was closed after the filing of a Final Judgment of Compliance and Repose on September 26, 2016. To the best of our knowledge, no action, arbitration or administrative proceeding is contemplated. Furthermore, we know of no other parties that should be joined in the above action.

GEBHARDT & KIEFER, P.C.
Attorneys for Petitioner, Borough of Wenonah

By: /s/ Tara Ann St. Angelo
TARA ANN ST. ANGELO

Dated: January 25, 2025

WENONAH BOROUGH
GLOUCESTER COUNTY, NEW JERSEY

RESOLUTION #2025-33

**RESOLUTION REGARDING FAIR SHARE AFFORDABLE HOUSING
OBLIGATIONS FOR THE FOURTH ROUND**

WHEREAS, the New Jersey Supreme Court, through its rulings in Southern Burlington County NAACP v. Mount Laurel, 67 13 N.J. 151 (1975) and Southern Burlington County NAACP 14 v. Mount Laurel, 92 N.J. 158 (1983), has determined that every municipality in New Jersey has a constitutional obligation to provide through its land use regulations a realistic opportunity for its fair share of its region’s present and prospective needs for housing for low- and moderate-income families; and

WHEREAS, on March 20, 2024, Governor Murphy signed P.L.2024, c.2. into law, establishing a new framework for determining and enforcing municipalities’ affordable housing obligations under the New Jersey Supreme Court’s Mount Laurel doctrine and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et al.); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality must adopt a binding resolution no later than January 31, 2025, determining its present and prospective fair share obligation for the Fourth Round; and

WHEREAS, pursuant to Administrative Directive #14-24 issued by the Administrative Office of the Courts on December 13, 2024, “[a] municipality seeking a certification of compliance with the [Fair Housing Act] shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (Civil CIS) in the county in which the municipality is located” within 48 hours of adopting the municipal resolution of fair share obligations; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(d), the New Jersey Department of Community Affairs issued “a report on the calculations of regional need and municipal obligations for each region of the State” on or about October 18, 2024 (the “DCA Report”); and

WHEREAS, the DCA Report set the municipal obligation for Wenonah Borough as follows:

Present Need: 0
Prospective Need: 29

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(a), a municipality may determine its present and prospective fair share obligation for affordable housing consistent with the established methodologies; and

WHEREAS, the Borough accepts the conclusions set forth in the DCA Report; and

WHEREAS, the Borough’s calculation of need is entitled to a “presumption of validity”

because it complies with Sections 6 and 7 of P.L. 2024, c. 2; and

WHEREAS, the Borough specifically reserves its rights to:

- a. Adjust the Borough's fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), a survey pertaining to present need pursuant to N.J.A.C. 5:93-5.2(a) and N.J.A.C. 5:93-Appendix C), and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law;
- b. Revoke or amend this Resolution and the Borough's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
- c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third-party challenge to the Borough's Fourth Round Affordable Housing Obligations.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of Wenonah Borough, Gloucester County, New Jersey, as follows:

1. Wenonah Borough hereby determines, based on the DCA Report and advice of the Municipal Planner and Attorney, to adopt the following obligations as its binding Fourth Round Affordable Housing Obligations:

Present Need: 0

Prospective Need: 29

2. The adoption of this Resolution and the aforementioned Fourth Round Affordable Housing Obligations is subject to all reservations of rights, which specifically include, without limitation, the following:
 - a. The right to adjust the Borough's fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), a survey pertaining to present need pursuant to N.J.A.C. 5:93-5.2(a) and N.J.A.C. 5:93-Appendix C), and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law with such adjustments to be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.;
 - b. The right to revoke or amend this Resolution and the Borough's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
 - c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third-party challenge to the Borough's Fourth

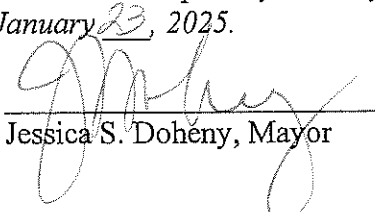
Round Affordable Housing Obligations.

3. The Municipal Clerk and Municipal Attorney are authorized to take all actions required by N.J.S.A. 52:27D-304.1(f)(1)(b), including:
 - a. Filing a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement, in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution pursuant to the requirements of P.L.2024, c.2, and AOC Directive #14-24
 - b. Publishing this Resolution on the Borough's website.
4. The Municipal Attorney, Municipal Planner, and Planning Board are authorized to take all actions to draft documents necessary to comply with all Fourth-Round affordable housing obligations, including drafting a Housing Element and Fair Share Plan, an Affordable Housing Trust Fund Spending Plan, and effectuating ordinances and resolutions.
5. This Resolution shall take effect immediately.

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Mayor and Council of Wenonah Borough at a meeting held on January 23, 2025.



Karen L. Sweeney, Clerk



Jessica S. Doheny, Mayor

Civil Case Information Statement

Case Details: GLOUCESTER | Civil Part Docket# L-000113-25

Case Caption: IN THE MATTER OF WENONAH BORO

Case Initiation Date: 01/24/2025

Attorney Name: TARA ANN ST ANGELO

Firm Name: GEBHARDT & KIEFER, PC

Address: 1318 ROUTE 31 NORTH

ANNANDALE NJ 08801

Phone: 9087355161

Name of Party: PETITIONER : IMO Boro of Wenonah

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: AFFORDABLE HOUSING

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: IMO Boro of Wenonah? NO

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? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

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 *Rule* 1:38-7(b)

01/24/2025

Dated

/s/ TARA ANN ST ANGELO

Signed

