

## **NOTICE OF AFFORDABLE HOUSING COMPLIANCE HEARING AND MIDPOINT REVIEW FOR THE TOWNSHIP OF SOUTH BRUNSWICK**

**PLEASE TAKE NOTICE** that on MONDAY, AUGUST 31, 2020 at 9:00 a.m., and as may be continued thereafter, a Final Compliance Hearing (the “Hearing”) and Midpoint Compliance Review (“Midpoint Review”) will be conducted before the Honorable Michael V. Cresitello, Jr., J.S.C., at the Superior Court of New Jersey, Middlesex County Courthouse, Courtroom 303, 56 Paterson Street, New Brunswick, NJ 08903; or, if an in-person hearing is not possible, via video conference. A notice will be posted on the Township’s website, advising whether the Hearing and Midpoint Review will be held in-person or via video conference, at least one week prior to the Hearing date.

The purpose of the Hearing is for the Court to:

- 1) Consider whether the Township’s Housing Element and Fair Share Plan (the “Plan”), implementing Ordinances and Spending Plan, satisfy the Township’s Mount Laurel affordable housing obligations pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., the substantive, applicable regulations of the New Jersey Council on Affordable Housing (“COAH”), the New Jersey Supreme Court’s March 10, 2015 decision in the matter of In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1, 35-36 (2015) (“Mount Laurel IV”), and other applicable laws; and
- 2) Conduct a statutorily required Midpoint Review of the status of all compliance mechanisms in the Township’s Plan.

The Township and the Planning Board of South Brunswick have been engaged in several lawsuits with a number of developers, interested parties and the Fair Share Housing Center (“FSHC”) since the 2015 decision in Mount Laurel IV. This litigation has been designed to determine the Township’s Third Round obligation to provide its fair share of affordable housing. After a trial in 2016, the Court determined that the Township had a Prior Round Obligation of 841 units, a Present Need / Rehabilitation Share obligation of 109 units, and a Third Round new construction obligation (including the “Gap Present Need” and “Prospective Need”) of 2,907 units. By Order dated August 8, 2016, the Court found that the Township had fully satisfied its 841 unit Prior Round Obligation. After the application of all applicable caps and credits, the Court entered an Order dated December 5, 2018, establishing that the Present Need / Rehabilitation Share was confirmed to be 109 units; and the Third Round new construction obligation (including the “Gap Present Need” and “Prospective Need”) was 1,417 units. The Township was directed to adopt a Plan that satisfied these obligations by March 2019. The Township Council endorsed a Plan in March 2019, but did so under protest. The Plan was subsequently amended on August 7, 2019.

The Court conducted a Compliance Hearing on September 23, 24, and 25, 2019. Special Master Christine Cofone issued an October 15, 2019 Master’s Report which made a number of recommendations regarding sites/compliance mechanisms in the Township’s March/August 2019 Plan and recommended the court restore immunity from builder remedy lawsuits. On November 27, 2019, the Court issued an Order of Conditional Judgment of Compliance and Repose, which ordered that the Township and Planning Board adopt an Amended Plan and Spending Plan, and also adopt all necessary implementing rezoning ordinances, which could be done under protest, no later than March 31, 2020, which was subsequently extended to June 29, 2020. The Plan was adopted (under protest) by the South Brunswick Township Planning Board on June 17, 2020 and endorsed (under protest) by the Township Council of the Township of South Brunswick on June 23, 2020. The adopted and endorsed (under protest) Plan provides a detailed list of the Township’s total affordable housing obligations and all compliance mechanisms that demonstrate the Township’s compliance with those obligations. The necessary implementing rezoning ordinances were also adopted (under protest) by the Township Council on June 23, 2020.

At the August 31, 2020, Hearing, the Township seeks a Final Judgment of Compliance and Repose pursuant to N.J.S.A. 52:27D-313 with formal approval of the Plan, implementing ordinances and Spending Plan. Such judgment will entitle the Township, among other things, to a period of protection and immunity from any builder's remedy or constitutional compliance lawsuits brought pursuant to the Mount Laurel Doctrine through July 7, 2025. The Township also seeks a Midpoint Review in satisfaction of the requirements of N.J.S.A. 52:27D-313, regarding the current status of implementation of the compliance mechanisms contained in the Plan

Any member of the public or interested party may appear and be heard at the August 31, 2020, Hearing and Midpoint Review, at which time they shall have the opportunity to present their position. In advance of the Hearing and Midpoint Review, any public comments and/or objections should be filed with the Court, in writing, at the address shown above, no later than August 24, 2020, with duplicate copies being forwarded by mail and, if possible, e-mail, to the Township, the Special Master, all parties directly involved in the lawsuits as well as other interested parties listed in the April 30, 2020, Court Order scheduling the hearing, a copy of which is available on the Township's website and in the Township Clerk's office.

Copies of the Plan, Spending Plan and all supporting documents and implementing rezoning ordinances are available for public inspection at any time at [www.sbtnj.net](http://www.sbtnj.net), or in the office of the Township Clerk, 540 Ridge Road, Monmouth Junction, NJ 08852, during normal business hours, Monday through Friday, 8:30 am – 4:30 pm. For any further information, contact:

Donald J. Sears  
Director of Law  
Township of South Brunswick  
540 Ridge Road  
P.O. Box 190  
Monmouth Junction, NJ 08852  
Tele. (732) 329-4000 ext. 7311  
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This Notice is provided pursuant to directive of the Court and is intended to inform all interested parties of the basic subject matter of the August 31, 2020 Hearing and Midpoint Review, the Township's request for a final Judgment of Compliance and Repose, the Township's request for Spending Plan approval, and to inform such parties that they are able to comment on the Township's Plan, implementing ordinances, Spending Plan and related documents before the Court reviews and evaluates whether to approve them. This Notice does not indicate any view by the Court, the Special Master, or the parties as to the merits of the application, any of the issues to be addressed and resolved at the Hearing and Midpoint Review, or whether the Court will ultimately grant the relief sought.