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*Formed in the Commonwealth of Pennsylvania*

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*Attorneys for Intervenor-Defendant,*

*Princeton Orchards Associates, LLC, as successor in interest*

*to Richardson Fresh Ponds, LLC*

**FILED**

**MAR 20 2018**

ARNOLD L. NATALI JR., P.J.Ch.

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<b>IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK FOR A JUDGMENT OF COMPLIANCE AND REPOSE AND TEMPORARY IMMUNITY FROM <u>MOUNT LAUREL</u> LAWSUITS</b>	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION : MIDDLESEX COUNTY : : Docket No.: MID-L-004433-17 : : CIVIL ACTION – <u>MT. LAUREL</u> : : : :
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<b>RICHARDSON FRESH PONDS, LLC &amp; PRINCETON ORCHARDS ASSOCIATES, LLC,</b>	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION : MIDDLESEX COUNTY : : Docket No.: MID-L-004436-17 : : CIVIL ACTION
<b>Plaintiffs</b>	
<b>v.</b>	
<b>TOWNSHIP OF SOUTH BRUNSWICK and PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK,</b>	

**Defendants.**

**ORDER  
SCHEDULING FAIRNESS HEARING**

**THIS MATTER** having been opened to the Court on joint application of the Township of South Brunswick ( "Township" ) and Princeton Orchards Associates, LLC, as successor in

interest to Richardson Fresh Ponds, LLC (“POA”), the plaintiff in the second above-captioned matter, earlier consolidated with the Township’s Mount Laurel IV Declaratory Judgment Action (first captioned above), and Court having been presented by the Township and POA (together “the Applicants”) with a written Settlement Agreement between the Applicants for which the Court’s approval is sought, and, on notice to all Counsel of record in the consolidated Declaratory Judgment Action, the Court having telephonically conducted a scheduling conference on record on March 14, 2018, and the Court having determined that there is “sufficient apparent merit” to warrant the scheduling of a Fairness Hearing in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) and Morris County Fair Housing Council v. Township of Boonton, 197 N.J. Super. 359 (Law Div. 1984); and for good cause shown;

IT IS on this 20<sup>th</sup> day of March, 2018,

**ORDERED:**

1. The Court will conduct a Fairness Hearing on May 22, 2018 at 9:30 AM on the Settlement Agreement.
2. The form and content of the Fairness Hearing Notice that is attached hereto as Exhibit “A” is hereby approved for use by the parties in providing adequate notice to the public of the Hearing.
3. The parties shall provide notice of the Fairness Hearing as follows:
  - A. Publishing a copy of the Notice in the *Home News* on or before April 6, 2018 as confirmed by the Affidavit of Publication to be filed with the Court.
  - B. Mailing, by certified mail, return receipt requested, a copy of the Notice to the following entities or individuals listed on attached Exhibit “B”.

C. Posting a copy of the Notice on the Township's official bulletin board by no later than April 6, 2018, as confirmed by a Certification to be filed with the Court by the Municipal Clerk.

D. Announcing Notice of the Hearing at each regularly scheduled Township Council meeting commencing on April 10, 2018.

4. On or before April 6, 2018 copies of the Settlement Agreement shall be placed on file for public inspection and photocopying during normal business hours with the Clerk of the Township of South Brunswick at the Township Municipal Building located at 540 Ridge Road, Monmouth Junction, NJ 08852 and served upon:

Township Clerk  
Township of South Brunswick  
540 Ridge Road, P.O. Box 190  
Monmouth Junction, NJ 08852

Hon. Arnold L. Natali, J.S.C.  
Middlesex County Court House  
56 Paterson Street  
P.O. Box 964  
New Brunswick, NJ 08901-0964

Donald J. Sears, Director of Law  
South Brunswick Municipal Bldg.  
540 Ridge Road, P.O. Box 190  
Monmouth Junction, NJ 08852

Christine Nazzaro-Cofone  
Cofone Consulting Group LLC  
125 Half Mile Road, Suite 200  
Red Bank, NJ 07701

Henry L. Kent-Smith, Esq.  
Irina B. Elgart, Esq.  
Fox Rothschild LLP  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648

So. Brunswick Planning Board  
c/o Thomas F. Collins, Jr., Esq.  
Vogel, Chait, Collins & Schneider  
25 Lindsley Drive, Suite 200  
Morristown, NJ 07960

Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

South Brunswick Center, LLC  
c/o Kenneth D. McPherson, Jr., Esq.  
Waters, McPherson McNeill  
300 Lighting Way, P.O. Box 1560  
Secaucus, NJ 07096

Windsor Associates  
c/o Brett Tanzman, Esq.  
Wilf Law Firm, LLP  
820 Morris Turnpike, Ste. 201  
Short Hills, NJ 07078

Bryan Plocker, Esq.  
Hutt & Shimanowitz  
459 Amboy Avenue, P.O. Box 648  
Woodbridge, NJ 07095

Stanton Girard  
c/o Aaron S. Brotman, Esq.  
Sills Cummis & Gross  
600 College Road East  
Princeton, NJ 08540

Avalon Bay  
c/o Robert Kasuba, Esq.  
Bisgaier Hoff LLC  
25 Chestnut Street, Suite 3  
Haddonfield, NJ 08033-1857

American Properties  
c/o Matthew N. Fiorovanti, Esq.  
Giordano, Halleran & Ciesla, P.C.  
125 Half Mile Road, Suite 300  
Red Bank, NJ 07701-6777

PFF Industrial/Route 130/Exit 8A LLC  
Tom Carroll, Esq.  
Hill Wallack LLP  
21 Roszel Road  
Princeton, NJ 08543-5226

Stephen M. Dahl, Esq.  
Vice President and Chief Legal Counsel  
K. Hovnanian Companies, L.L.C.  
110 Fieldcrest Avenue  
Edison, NJ 08837

Christopher John Stracco, Esq.  
Day Pitney LLP  
One Jefferson Road  
Parsippany, NJ 07054-2891

5. Any party that seeks to appear and be heard on the Settlement Agreement at the Fairness Hearing is directed to file written comments, concerns or objections with the Court no later than May 11, 2018, with duplicate copies forwarded by Certified Mail, return receipt requested, to the attention of those parties listed in the preceding paragraph 4.

6. On or before May 15, 2018, Mount Laurel Master Christine Cofone, P.P., shall furnish the Court and counsel for all parties of record a copy of her Master's Report on the issues associated with the Settlement Agreement and the Fairness Hearing. The Master's Report shall be placed on file with the South Brunswick Township Clerk at the address set forth above and be available for public inspection and photocopying during normal business hours.

7. Within seven (7) days of the execution of this Order through and until the May 22, 2018 Fairness Hearing, a copy of the Order shall be placed on the official bulletin board of

Township of South Brunswick at the Township Municipal Building and shall be available for public inspection and photocopying during normal business hours.

**FURTHER ORDERED** that counsel for Plaintiff shall serve a copy of this Order on counsel within 3 days of receipt hereof.

  
Hon. Arnold L. Natali, Jr, J.S.C.

Opposed

Unopposed

**EXHIBIT A**

**FORM OF NOTICE**

**PUBLIC NOTICE**

**TOWNSHIP OF SOUTH BRUNSWICK, MIDDLESEX COUNTY**

**NOTICE OF HEARING TO DETERMINE WHETHER SETTLEMENT AGREEMENT  
WITH PRINCETON ORCHARDS ASSOCIATES SHOULD BE APPROVED**

**PLEASE TAKE NOTICE** that on Tuesday, May 22, 2018 at 9:30 a.m., and as may be continued thereafter, there will be a Fairness Hearing (the "Hearing") before the Honorable Arnold L. Natali, J.S.C., at the Superior Court of New Jersey, Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey 08903, in the matter known as *RICHARDSON FRESH PONDS, LLC & PRINCETON ORCHARDS ASSOCIATES, LLC. v. TOWNSHIP OF SOUTH BRUNSWICK and PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK*, Docket No. MID-L-4436-17, consolidated with the Township's Mount Laurel IV Declaratory Judgment Action *In the Matter of the Application of the Township of South Brunswick in Middlesex County*, bearing Docket No. MID-L-4433-17 (the "Action"). The purpose of the Hearing is for the Court to determine whether the terms of a Settlement Agreement reached on March 19, 2018 between the Township of South Brunswick ("Township") and Princeton Orchards Associates, as successor in interest to Richardson Fresh Ponds, LLC is fair and reasonable to low and moderate income households.

By way of brief summary, the above action was instituted by the Township seeking declaratory judgment granting it immunity and repose pursuant to N.J.S.A. 52:27D-313 and a judicial declaration that its housing plan is presumptively valid because it presents a realistic opportunity for the provision of its fair share of its housing region's present and prospective need for low- and moderate-income housing pursuant to the Court's decision in 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"). The parties have agreed to amicably resolve the issues brought forth in the Action, as it relates to the Princeton Orchards Associates property located at Route 522, Ridge Road and Griggs Drive and designated as Block 31.00, Lot 30.012 and Block 31.00, Lot 35.09 on the tax map of the Township of South Brunswick (the "POA Property"), consisting of approximately 49 acres, with a 24 acre portion of the Property developed for 120 two-bedroom apartments, known as "Princeton Orchards", and the remaining 25 acres fronting on Route 522 being currently vacant. In addition, the Township had previously acquired title to certain property adjoining the existing Princeton Orchard apartments known as 368 Ridge Road, Dayton, NJ, and designated as Block 31 Lots 35.712 and 35.811, being approximately 6.04 acres in area, and commonly referred to as the "Stover Tract". The Township and POA have reached an agreement to convey the Stover Tract to POA in consideration of POA's agreement to modify its proposed development to redistribute a portion of the proposed inclusionary housing development on to the Stover Tract (collectively the POA Property and the Stover Tract are referred to as the "Property").

The settlement will provide for the development of the Property for a subdivided commercial lot consisting of approximately 8.5 contiguous acres fronting on Route 522, inclusive of the existing Maul Electric property (the "**Commercial Lot**") and with an inclusionary project consisting of a total of 120 existing and 184 new apartments, with a 25%

affordable housing set aside allocated to the 184 new market rate apartments, resulting in creation of 46 affordable family rental apartments;

This notice is being provided to advise all parties who may be interested that the Court will conduct a hearing on the settlement pursuant to East/West Venture v. Borough of Fort Lee, 286 N.J.Super. 311 (App. Div. 1996), and if the Court determines that: (1) the settlement has apparent merit, (2) that notice was given to all members of the class and others who have an interest in the settlement, (3) the hearing has been conducted on the settlement where those affected have sufficient time to prepare, and (4) that the settlement is "fair and reasonable to members of the protected class".

Any interested party that seeks to appear and be heard at the May 22, 2018 Hearing on the above issues shall have the opportunity to present their position. In advance of the Hearing, any objections or comments by any interested party must be filed with the Court, in writing, no later than May 11, 2018, with duplicate copies being forwarded by mail and, if possible, e-mail, to the attention of the following:

Township Clerk  
Township of South Brunswick  
540 Ridge Road, P.O. Box 190  
Monmouth Junction, NJ 08852

Hon. Arnold L. Natali, J.S.C.  
Middlesex County Court House  
56 Paterson Street  
P.O. Box 964  
New Brunswick, NJ 08901-0964

Donald J. Sears, Director of Law  
South Brunswick Municipal Bldg.  
540 Ridge Road, P.O. Box 190  
Monmouth Junction, NJ 08852

Christine Nazzaro-Cofone  
Cofone Consulting Group LLC  
125 Half Mile Road, Suite 200  
Red Bank, NJ 07701

Henry L. Kent-Smith, Esq.  
Irina B. Elgart, Esq.  
Fox Rothschild LLP  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648

So. Brunswick Planning Board  
c/o Thomas F. Collins, Jr., Esq.  
Vogel, Chait, Collins & Schneider  
25 Lindsley Drive, Suite 200  
Morristown, NJ 07960

Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

South Brunswick Center, LLC  
c/o Kenneth D. McPherson, Jr., Esq.  
Waters, McPherson McNeill  
300 Lighting Way, P.O. Box 1560  
Secaucus, NJ 07096

Windsor Associates  
c/o Brett Tanzman, Esq.  
Wilf Law Firm, LLP  
820 Morris Turnpike, Ste. 201  
Short Hills, NJ 07078

Stanton Girard  
c/o Aaron S. Brotman, Esq.  
Sills Cummis & Gross  
600 College Road East  
Princeton, NJ 08540

American Properties  
c/o Matthew N. Fiorovanti, Esq.  
Giordano, Halleran & Ciesla, P.C.  
125 Half Mile Road, Suite 300  
Red Bank, NJ 07701-6777

Stephen M. Dahl, Esq.  
Vice President and Chief Legal Counsel  
K. Hovnanian Companies, L.L.C.  
110 Fieldcrest Avenue  
Edison, NJ 08837

Bryan Plocker, Esq  
Hutt & Shimanowitz  
459 Amboy Avenue, P.O. Box 648  
Woodbridge, NJ 07095

Avalon Bay  
c/o Robert Kasuba, Esq.  
Bisgaier Hoff LLC  
25 Chestnut Street, Suite 3  
Haddonfield, NJ 08033-1857

PFF Industrial/Route 130/Exit 8A LLC  
Tom Carroll, Esq.  
Hill Wallack LLP  
21 Roszel Road  
Princeton, NJ 08543-5226

Christopher John Stracco, Esq.  
Day Pitney LLP  
One Jefferson Road  
Parsippany, NJ 07054-2891

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 May 22, 2018 Hearing, the existence of the Settlement and the possible consequences of Court approval of this Settlement. Copies of all documents related to this Action may be obtained from the South Brunswick Township Clerk, South Brunswick Municipal Building, 540 Ridge Road, P.O. Box 190, Monmouth Junction, NJ 08852 during normal business hours. This Notice does not indicate any view by the Court or the parties as to the merits of the Action, the fairness, reasonableness, or adequacy of the proposed settlement, or of any of the issues to be addressed and resolved at the Hearing.

TOWNSHIP OF SOUTH BRUNSWICK

By: Donald Sears, Esq.

**EXHIBIT B**

**LIST OF INTERESTED AFFORDABLE HOUSING PROVIDERS RECEIVING NOTICE**

**Region 3 – Service List**

Habitat for Humanity Middlesex County 51 Trinity Lane Woodbridge, NJ 07095	New Jersey Citizen Action 118 W. State Street Trenton, NJ 08608
Latino Action Network PO Box 943 Freehold, NJ 07728	Middlesex County NAACP New Brunswick Area Branch PO Box 235 New Brunswick, NJ 08901-0235
Coming Home of Middlesex County 75 Bayard Street New Brunswick, NJ 08901	Habitat for Humanity of Greater Plainfield 2 Randolph Road Plainfield, NJ 07060
Supportive Housing Association of New Jersey 15 Alden St # 14 Cranford, NJ 07016	Council on Affordable Housing 101 South Broad Street PO Box 813 Trenton, NJ 08625
NJ State Conference of the NAACP 4326 Harbor Beach Blvd. #775 Brigantine, NJ 08203	Dan McGuire Homeless Solutions 540 West Hanover Avenue Ste 100 Morristown, NJ 07960
Central Jersey Housing Resource Center 600 First Avenue, Ste 3 Raritan, NJ 08869	Susan McDonough, Ex. Dir. Friends of the Carpenter c/o Watchung Ave. Presbyterian Church 170 Watchung Ave. North Plainfield, NJ 07060
Jacqui Adam, Housing Coordinator Allies, Inc. 1262 White Horse-Hamilton Square Road Bldg. A Suite 101 Hamilton, NJ 08625	Robin Bynoe Enable, Inc. 13 Roszel Rd., Ste B110 Princeton, NJ 08540
Mary Mae Henley Coopertive Housing Corp. Somerville, NJ 08876	Raritan Valley Habitat for Humanity, Inc. 100 West Main Street Somerville, NJ 08876
NJ Statewide Independent Living Council 390 George St, 2 <sup>nd</sup> Floor New Brunswick, NJ 08901	Faith Fellowship CDC 2707 Main Street Sayreville, NJ 07062
Jewish Renaissance Community Foundation 149 Kearny Avenue Perth Amboy, NJ 08861	Making it Possible to End Homelessness 60 Clif Prescod Lane Edison, NJ 08817
The Intersect Fund 109 Church Street New Brunswick, NJ 08901	