

MIDPOINT REVIEW
BOROUGH OF NEW PROVIDENCE
Union County, New Jersey

July 1, 2020

Prepared By:



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MIDPOINT REVIEW OF NEW PROVIDENCE, UNION COUNTY

Purpose

The Borough of New Providence's 2019 Amended Settlement Agreement with Fair Share Housing Center ("FSHC") and objectors Murray Hill, LLC (as a successor to Linde North America, Inc.) ("Linde"), Beckton Dickson and Company (f/k/a C.R. Bard, Inc.) ("BD"), ("Objectors") requires that New Providence comply with the statutory midpoint review requirements of the Fair Housing Act ("FHA") and specifically N.J.S.A. 52:27D-313, which provides in relevant part: "[t]he Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public." For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center. The Settlement Agreement requires the Borough to post "a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to address the municipality's fair share obligations should be revised or supplemented" on the Borough's website and copy is to be provided to FSHC. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

Any interested party is requested to submit comments within 10 days of the date of this posting regarding whether any sites in the Agreement and HEFSP no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented, to the following:

Borough Clerk:

Wendi Barry, Borough Clerk
Borough of New Providence
360 Elkwood Avenue
New Providence, NJ 07974

Affordable Housing Special Counsel:

Steven A. Kunzman, Esq.
DiFrancesco Bateman
361 Route 31, Suite 1301
Flemington, NJ 08822

Fair Share Housing Center:

Adam M. Gordon, Esq.
Executive Director
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002

Relevant Background

In response to Mount Laurel IV, New Providence filed a Declaratory Judgment action on July 7, 2015. On December 13, 2016, the Borough and FSHC entered into a Settlement Agreement, which was approved by the Court at a Fairness Hearing held on January 13, 2017 and memorialized in an Order entered January 30, 2017. An Amended Settlement Agreement was executed on April 1, 2019 with FSHC as well as with Murray Hill, LLC as successor to Linde North America, Inc., and Becton Dickinson and Company, both of which had objected to the Borough's previous Settlement Agreement. The Borough also entered into a separate Affordable Housing Settlement Agreement with Murray Hill, LLC, a Successor to Linde North America Inc., on April 1, 2019. Pursuant to the 2019 Amended Settlement Agreement, the Borough has the following obligation:

Rehabilitation Share: 37

Prior Round Obligation: 135

Third Round Obligation: 316 (including a Realistic Development Potential (RDP) of 52 and 264 in Unmet Need)

In accordance with the Fair Housing Act and the Municipal Land Use Law (MLUL), the Borough prepared the Housing Element and Fair Share Plan, which was adopted by the Planning Board on March 7, 2017. An Amended Housing Element and Fair Share Plan was adopted by the Planning Board on July 9, 2019 and endorsed by the Borough Council on July 15, 2019. The Borough received a Conditional Judgment of Compliance and Repose (JOR) via a Court Order dated November 13, 2019. The conditions of the JOR are as follows:

- Confirm the creditworthiness of units at the following group homes, or provide alternative crediting mechanisms:
 - Arc of Union County
 - Union County Arc I and II
 - Community Access I and II

The Borough, along with their professionals, has worked with the Court-appointed Special Master and FSHC to resolve the conditions listed above. Documentation was provided to Court Master Kendra Lelie regarding the ongoing service of the Community Access facilities. The Borough through its professionals attempted to work out an agreement with Community Access in order to apply rental bonus credits for their facility. An agreement could not be reached. The Court Master has agreed to allow the Borough to claim the 12 credits from the Community Access facilities without bonus credits. The Borough's professionals are in the process of reaching an agreement with ARC of Union County. While this process has been slowed down due to the Covid-19 pandemic, the Borough anticipates having an executed agreement by the end of the summer. With the agreement in place, the Borough will have satisfied the conditions of the JOR.

Additionally, the Borough has adopted all requisite documents, including:

- An Ordinance Addressing the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Borough's Affordable Housing Obligations (Chapter 275 of the Borough's Revised General Code)
 - Ordinance 2017-07 Adopted May 22, 2017
 - Ordinance 2019-10 Amending Chapter 275 at the request of the Court Master – Adopted October 15, 2019
- An Ordinance Amending the Borough's Development Fee ordinance (Chapter 285 of the Borough's Revised General Code)
 - Ordinance 2017-09 Adopted May 22, 2017
- An Ordinance Amending the Borough's Zoning Ordinance (Chapter 310 of the Borough's Revised General Code) to create the following affordable housing zones: A4 Affordable Housing Zone, AHO Affordable Housing Overlay, AH-ARO Affordable Housing Age-Restricted Overlay, and the PACO Planned Adult Community Overlay
 - Ordinance 2019-06 Adopted September 9, 2019
- An Ordinance Amending the Borough's Zoning Ordinance (Chapter 310 of the Borough's Revised General Code) to create the CCRCO Continuing Care Retirement Community Overlay with a specialized development fee to be contributed to the Borough's Affordable Housing Trust Fund
 - Ordinance 2019-07 Adopted September 9, 2019
 - Ordinance 2019-12 Amending the CCRCO Zone – Adopted December 18, 2019
- A Resolution Appointing a Municipal Housing Liaison
 - Resolution 2017-004 Adopted January 4, 2017 Appointing Keith Lynch
 - Resolution 2019-176 Adopted July 15, 2019 Appointing Keith Lynch
- A Resolution Appointing an Administrative Agent
 - Resolution 2017-005 Adopted January 4, 2017 Appointing Borough Employee Margaret Koontz
 - Resolution 2019-177 Adopted July 15, 2019 Appointing Borough Employee Margaret Koontz
- A Resolution Adopting the Affirmative Marketing Plan
 - Resolution 2017-139 Adopted May 22, 2017
 - Resolution 2019-218 Adopted September 23, 2019 Amending the Affirmative Marketing Plan at the request of the Court Master
- A Resolution Endorsing the Adopted Housing Element and Fair Share Plan
 - Resolution 2019-178 Adopted July 15, 2019 Endorsing the 2019 Amended Housing Element and Fair Share Plan
- A Resolution Adopting the Housing Rehabilitation Manual
 - Resolution 2019-188 Adopted August 12, 2019
- A Resolution Approving the Affordable Housing Spending Plan
 - Resolution 2019-189 Adopted August 12, 2019

- A Resolution Approving Funding for Shortfall
 - Resolution 2019-190 Adopted August 12, 2019

Rehabilitation Program(s) Update, Marketing, and Status

The Borough of New Providence has a Rehabilitation Share / Present Need obligation of 37 units.

The purpose of the Housing Rehabilitation Program is to improve the supply of affordable housing by preserving the existing housing stock. The program assists very low-, low- and moderate-income households (owner or renter) to adequately maintain their properties and thus provide sustainable housing for the future. New Providence has an obligation to rehabilitate 37 units. To address its Rehabilitation Share, the Borough participates in Union County rehabilitation programs. The County's rehabilitation programs utilize Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) funding and are operated by the County's Bureaus of Community Development and Housing.

Union County provides a Home Improvement Program through the Department of Economic Development, also funded CDBG monies. The Home Improvement Program can offer a Deferred Payment loan up to \$24,999 to qualified low- and moderate-income homeowners living in single- and two-family homes in Union County. Due to the short time period since the Borough received it's conditional JOR, no new units have taken advantage of the program.

In addition to advertising these programs on the municipal website, New Providence has expanded its rehabilitation opportunities by implementing a Borough-wide Rental Rehabilitation Program. A Rental Rehabilitation Operating Manual was adopted by resolution by the Borough Council in June of 2019 (see the Housing Element and Fair Share Plan for additional details). The Borough of New Providence actively advertises the Rental Rehabilitation Program on the Borough website. At present, there have been no applications to the Borough Rental Rehabilitation Program.

Realistic Opportunity Review

The Borough received a Vacant Land Adjustment (VLA) in 1989. An updated VLA was prepared in October of 2015, identifying a total of 10.2 developable acres across four (4) sites. Assuming a maximum set-aside of 20 percent, New Providence has a Third Round RDP of 14 units. As a result of negotiations with Beckton Dickinson, the property located 11 Spring Street was added to the vacant land calculations, amending the Third Round obligation to encompass an RDP of 52 units and an unmet need of 264 units.

<u>Mechanism</u>	<u>Block(s) & Lot(s)</u>	<u>Description</u>	<u>Ordinances Adopted (Yes/No)</u>	<u>Status</u>	<u>Notes/Additional Information</u>
A-2 Affordable Housing Zone (Inclusionary Zoning)	Block 310 Lot 1, 2; Block 311 Lot 3	10 family	NA	Proposed; site has not developed yet	1 unit from this zone is applied to the Borough's Third Round RDP
A-4 Affordable Housing Zone (Inclusionary Zoning)	Block 210 Lot 32 ("Beckton Dickinson" site)	38 family rental	Ordinance No. 2019-06; adopted 9/19/2019	Borough representatives met with developer to discuss concept plan in February 2020; no formal site plan application has been submitted yet	-

Unmet Need

The Borough of New Providence addresses its Unmet Need of 264 through the implementation of three (3) overlay zones to facilitate the construction of affordable units. The Affordable Housing (AHO), Affordable Housing Age-Restricted (AH-ARO) and Planned Adult Community (PACO) Overlay Zones can support a total of 204 affordable units, 127 of which will be family.

<u>Mechanism</u>	<u>Block(s) & Lot(s)</u>	<u>Description</u>	<u>Ordinances Adopted (Yes/No)</u>	<u>Status</u>	<u>Notes/Additional Information</u>
AHO Affordable Housing Overlay Zone	Block 210 Lot 21, 22, 23; Block 221 Lot 2.01, 6; Block 340 Lot 4, 6, 8	127 family rental	Ordinance No. 2019-06; adopted 9/19/2019	No application has been submitted that would trigger the affordable overlay	=
AH-ARO Affordable Housing Age-Restricted Overlay Zone	Block 221 Lot 5	20 age-restricted rental	Ordinance No. 2019-06; adopted 9/19/2019	No application has been submitted that would trigger the affordable overlay	=
PACO Planned Adult Community Overlay Zone	Block 370 Lot 1	59 age-restricted rental	Ordinance No. 2019-06; adopted 9/19/2019	No application has been submitted that would trigger the affordable overlay	-

Very Low-Income Analysis

Very Low-Income Breakdown Analysis – New Providence Affordable Housing				
Development	# OF TOTAL AH UNITS POST 2008	VL	Low	Mod
Constructed				
Spring Gardens (851 Springfield Ave) (constructed 2008)	6	-	3	3
Union County ARC (905 Springfield Ave)	3	3	-	-
CONSTRUCTED TOTALS	9	3	3	3

Conclusion

New Providence's plan implementation continues to create a realistic opportunity for the development of housing affordable to low and moderate income households in accordance with the Settlement Agreement and the Judgment of Repose, and the Borough maintains sufficient mechanisms for addressing its Rehabilitation Share/Present Need Obligation.