

**THIRD ROUND MIDPOINT REVIEW
of the
REALISTIC OPPORTUNITY for AFFORDABLE HOUSING
for the
BOROUGH OF CAPE MAY POINT
CAPE MAY COUNTY, NEW JERSEY**

*IMO Application of the Borough of Cape May Point
Docket No. CPM-L-292-15*

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1.0 PURPOSE

The Borough of Cape May Point's 2017 Settlement Agreement with Fair Share Housing Center ("FSHC") requires that the Borough comply with the statutory midpoint review requirements of the Fair Housing Act ("FHA") and N.J.S.A. 52:27D-313, which provides: "[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." Pursuant to the FSHC Settlement Agreement, that review requires the Borough to post on its website, with a copy to FSHC and an opportunity for comment, a status report regarding its fair share compliance mechanisms and whether or not unbuilt sites/unfulfilled mechanisms continue to present a realistic opportunity for construction of affordable housing. This report has been prepared to comply with those statutory midpoint review requirements.

2.0 BACKGROUND

Following the New Jersey Supreme Court's 2015 Mount Laurel decision, the Borough filed its Declaratory Judgment action with the Superior Court on June 8, 2015. Through the declaratory judgment process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over the matter to review. The Borough of Cape May Point entered into a Settlement Agreement with FSHC executed on December 8, 2017. Following a fairness hearing conducted on March 15, 2018, the municipality's affordable housing proposal was deemed fair to the low- and moderate-income citizens of the state, and an Order approving the settlement agreement was entered on March 20, 2018. This report has been prepared to comply with the terms of that Settlement Agreement, which require a review at the midpoint of the Third Round (July 1, 2020) of whether the unbuilt compliance mechanisms included in the Settlement Agreement and the Housing Element and Fair Share Plan ("HEFSP") continue to present a realistic opportunity for the development of affordable housing.

The Settlement Agreement established the Borough's Third Round Fair Share obligations as follows:

- Rehabilitation Share/Present Need: 0 units
- Prior Round Obligation: 34 units
- Third Round Gap and Prospective Need Obligation: 36 units

Due to the Borough's continued shortage of suitable land that presents a reasonable opportunity for the development of affordable housing, Vacant Land Adjustments were approved for both the Prior Round and Third Round obligations. Accordingly, the Borough's obligations were reduced to a Realistic Development Potential ("RDP") of 0 units, leaving a combined Unmet Need of 70 units.

3.0 REHABILITATION OBLIGATION REVIEW

The Borough has a Rehabilitation Obligation/Present Need of 0 units, therefore no action is required of the municipality.

4.0 PRIOR AND THIRD ROUNDS UNMET NEED REVIEW

The Borough of Cape May Point's Prior Round and Third Round RDPs of 0 units resulted in a total Unmet Need of 70 units. As established in the Settlement Agreement, the Borough agreed to satisfy its Unmet Need through an accessory apartment program and mandatory setaside ordinance.

The the Settlement Agreement and Third Round HEFSP note that the Borough adopted its accessory apartment program, which is found at Section 52-3 of the Borough's Code. The Borough agreed to maintain this program at least through July 1, 2025 and entered an agreement with Triad Associates to implement it. The Borough has indicated that the program continues to be marketed to the public but no applications have been received to date.

Additionally, in June 2018, the Borough adopted a mandatory setaside ordinance (No. 08-2018), found at Section 52-21 of the Borough's Code. This ordinance requires affordable housing setasides for any new multifamily residential or mixed-use developments consisting of five (5) or more residential units. The required setasides are 15% for rental developments and 20% for for-sale projects.

5.0 VERY LOW INCOME ANALYSIS

The amended Fair Housing Act requires the Borough to ensure that 13% of all affordable units built, approved, or proposed since July 2008 are affordable to very low income households with incomes of 30% or less of regional median income. The Borough agreed to comply with these terms by providing funding for one very low income accessory apartment unit and requiring 13% of any new affordable units created through the mandatory setaside ordinance to be very low income. As noted above, no new developments or accessory units have been created since the adoption of the Borough's HEFSP.

6.0 SUMMARY

The Borough of Cape May Point has taken all measures required by the Settlement Agreement to ensure that the proposed compliance mechanisms included in its adopted Housing Element and Fair Share Plan continue to present a realistic opportunity for the development of affordable housing. The income and bedroom distribution of these units will meet UHAC and FHA requirements, and the Borough will continue to meet its obligation to ensure that 13% of all units are affordable to very low income households.