

BOROUGH OF ALPINE, COUNTY OF BERGEN
PUBLIC NOTICE OF MOUNT LAUREL FAIRNESS HEARING

Docket Number: BER-L-6286-15

Docket Number: BER-L-0293-20

PLEASE TAKE NOTICE that a “Fairness Hearing” will be held on January 26, 2024 at 1:30 pm before the Honorable Christine A. Farrington, J.S.C, at 1:30 PM. at the Superior Court of New Jersey, Bergen County, 10 Main Street Hackensack, New Jersey. This Hearing will take place through both in person and virtual technology options. Since a meeting link for the hearing is not yet available, once it is provided by the Court, a copy will be posted on the Borough’s website. Alternatively, you may contact the Borough’s Affordable Housing Counsel, Edward J. Buzak, Esq. or his paralegal, Kathleen Collins of Surenian, Edwards, Buzak & Nolan LLC at 732-612-3100 to request that the meeting link be sent to you

The Fairness Hearing will be held for the Court to consider approval of the (1) Settlement Agreement between the Borough of Alpine (“Borough”) and Fair Share Housing Center (“FSHC”) in the Mount Laurel Declaratory Action entitled In the Matter of the Application of the Borough of Alpine, County of Bergen, Docket Number BER-L-6286-15; and (2) the Settlement Agreement between the Borough and F.E. Alpine, Inc., SYLCO Investments #4, LLC, Sylco Investments 854, LLC, 850 Closter Dock Road, LLC, 842 Closter Dock Road, LLC and Sylco Investments #5, LLC (collectively, “Developer”) in the action entitled Sylco Investments #4, LLC, et al v. Borough of Alpine, County of Bergen, Docket Number BER-L-0293-20. Through this judicial proceeding, the Court will evaluate whether the proposed Settlement Agreements (“Settlement Agreements”) are fair and reasonable to the region’s low and moderate income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div.1984), aff’d o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996). In addition, the purpose of the hearing is to consider whether the Borough's plan as summarized in the Settlement Agreement with FSHC provides a realistic opportunity to satisfy the Borough’s rehabilitation, Prior Round and Third Round "fair share" of the regional need for housing affordable to very-low income, low income and moderate income households 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: N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) and other applicable laws and judicial decisions.

To facilitate this procedure, the Borough has filed with the Court and placed on file with the Borough Clerk a copy of the Settlement Agreements. Various other related documents may be filed with the Court at or prior to the Fairness Hearing and may be entered as formal Exhibits at the Hearing. These Settlement Agreements are available for public inspection at the office of the Borough Clerk located at 100 Church Street, Alpine, NJ 07620 during regular business hours. In addition, you may contact the Borough Clerk at 201-784-2900 ext. 19 during regular business hours, to request a copy of the documents be sent to you. Alternatively, you may contact the Borough’s Affordable Housing Counsel, Edward J. Buzak, Esq. or his paralegal, Kathleen Collins of Surenian, Edwards, Buzak & Nolan LLC at 732-612-3100 to request a copy of the documents be sent to you.

With regard to the Settlement Agreement with the Developer, the Developer is the owner of approximately 22.6 acres of property located in the Borough of Alpine known and designated as Block 55, Lots 25.01, 26, 27, 28, 29 and 30 (the "Property"). The Borough and the Developer were involved in litigation regarding the Borough’s December 8, 2000 Judgment of Repose and a proposal to construct an inclusionary residential development containing an affordable housing component on the Property. The Borough and the Developer have entered into a Settlement Agreement that resolves various substantive issues concerning the development of the Property, subject to all required public hearings. The terms of the settlement with the Developer include, but are not limited to, the following:

1. The Property will be developed with 40 non-age-restricted townhomes, 32 of which will be market-rate units and 8 of which will be affordable, rental units (2 very-low-income units, 2 low-income units and 4 moderate-income units). The bedroom distribution of the affordable housing units is as follows: 2 three-bedroom units; 5 two-bedroom units; and 1 one-bedroom units.
2. An affordable housing set-aside of twenty percent (20%) is being provided, a minimum of 8 credits can be applied against the Borough's affordable housing obligation and the Borough will be able to obtain 8 bonus rental credits against its affordable housing obligation based upon this development.
3. A portion of the Property is encumbered by a deed restriction (“DR”) prohibiting further subdivision of a portion of the Property and a deed restriction imposed by the Alpine Planning Board as a condition of approval (“COA”) on a portion of the Property that it would only be used for one single-family dwelling. At this Fairness Hearing the Developer will also ask the Court to modify, remove and/or discharge both the DR and the COA to allow for the construction of the proposed development outlined above as set forth in more detail in Article V, Paragraph G of the Settlement Agreement with the Developer. The Developer will place on

file with the Borough Clerk a copy of the documents which reflect the encumbrances of the DR and the COA described above and other material on which the Developer intends to rely to support its request described above. The Developer intends to file a motion with the Court requesting the Court rescind the COA and DR. Copies of said documents and material can be requested in the same manner detailed above for the fairness documents.

Fair Share Housing Center ("FSHC"), a public interest organization representing the housing rights of New Jersey's poor and an interested party in connection with the above-referenced lawsuit, has sought to enhance opportunities for very-low-, low- and moderate-income housing. The Borough and FSHC have entered into a Settlement Agreement that resolves various substantive issues concerning the Borough's affordable housing obligation and the means by which the Borough intends to satisfy that obligation, subject to all required public hearings. The terms of the settlement with FSHC include, but are not limited to, the following:

1. The Borough has a Prior Round obligation of 108 units (as adjusted pursuant to the 20% cap). The Borough received a Judgment of Repose on December 8, 2000 for its Prior Round Housing Element and Fair Share Plan. In that Judgment of Repose, the Borough received a vacant land adjustment, had a realistic development potential ("RDP") of 32 units and an unmet need of 76 units. The Borough's 32-unit Prior Round RDP was addressed as follows:

- 16 credits from Regional Contribution Agreement with Fairview
- 16 credits from a family rental development at Block 39, Lot 2.01 – 8 units and 8 bonus credits

2. For the purposes of settlement, FSHC and the Borough agree that the Borough's Third Round (1999-2025) Gap and Prospective Need obligation is 122 (as adjusted pursuant to the 20% cap). FSHC and the Borough further agree that the Borough is eligible for a vacant land adjustment, has a Third Round RDP of 32 units and a Third Round unmet need of 90 units. The Borough's 32-unit Third Round RDP will be addressed as follows:

- 16 credits for the family affordable rental units to be constructed by the Developer as summarized above – 8 units and 8 bonus credits
- 14 supportive housing credits for the expanded municipal site – Block 39, Lot 2.01 (Bergen County United Way)
- 4 credits for accessory apartments

3. The Borough has a total unmet need of 166 units (Prior Round unmet need of 76 units + Third Round unmet need of 90 units) which shall be addressed as follows:

- The adoption of an Overlay Zoning Ordinance for the following property:
 - Radio/Telecommunications Tower site (Block 80, Lots 10 and 11) – 35 total units with a 20% set-aside of 7 affordable units
- The adoption of a Mandatory Set-Aside Ordinance that will require a set-aside of 20% for all new multi-family residential development of 5 or more units that becomes permissible through a use variance, density variance, rezoning, or new redevelopment plan.
- If sanitary sewer service becomes available to additional sites, the Borough agrees to create a realistic opportunity for the development of an aggregate of 15 affordable units at inclusionary developments on sites that meet the conditions and criteria set forth in detail in Paragraph 12 of the Settlement Agreement with FSHC.

4. FSHC agrees that the Third Round Gap and Prospective Need obligation and the manner of satisfying it as summarized above fully satisfies the Borough's responsibilities regarding its affordable housing obligations under the applicable law.

5. FSHC and the Borough have agreed that should the Borough's Third Round Prospective Need obligation be reduced by more than 10 percent as a result of the application of an opinion or decision by any Court or administrative agency having jurisdiction, the Borough can seek to reduce its Third Round Prospective Need obligation accordingly.

6. Upon the Court's approval of both Settlement Agreements, the Borough shall be granted a 10 year Judgment of Compliance and Repose for the time period of July 1, 2015 to July 1, 2025.

Any interested party, including any low- or moderate-income persons residing in the housing region, any organization representing the interests of low- and moderate-income persons, any owner of property in the Borough of Alpine, or any organization representing the interests of owners of property in the Borough of Alpine, may file comments on, or objections to, the Settlement Agreements. Objections must provide: (a) a clear and

complete statement as to each aspect of the Settlement Agreements contested by the objector; (b) an explanation of the basis for each objection; and (c) copies of all such expert reports, studies, or other data relied upon by the objector, along with a list of witnesses the Objector intends to call during the Fairness Hearing. For an objector witness to testify during the Fairness Hearing, an accompanying written expert report must be filed with all interested parties by the deadline below.

Such comments or objections, together with copies of any supporting affidavits, expert reports, or other documents, **must be filed in writing**, on or before **December 18, 2023 at 4:00 p.m.** with the Honorable Christine A. Farrington, J.S.C. at the Bergen County Superior Courthouse located at 10 Main Street, Hackensack, NJ 07601, with copies of all papers being forwarded by mail or e-mail to:

Edward J. Buzak, Esq.
Keli L. Gallo, Esq.
Affordable Housing Attorney- Borough of Alpine
Surenian, Edwards, Buzak & Nolan LLC
311 Broadway, Suite A
Point Pleasant Beach, NJ 08742
EJB@Surenian.com
KLG@Surenian.com

Mary Beth Lonergan, PP, AICP
Court Master
Clarke Caton Hintz
100 Barrack Street
Trenton, NJ 08608
mblonergan@cchnj.com

Levi J. Kool, Esq.
Attorney – Borough of Alpine
Huntington Bailey LLP
373 Kinderkamack Road
Westwood, NJ 07675
ljk@huntingtonbailey.com

John A. Schepisi, Esq.
Attorney for Developer
Schepisi & McLaughlin, PA
473 Sylvan Avenue
Englewood Cliffs, NJ 07632
jschepisi@schepisi.com

Adam Gordon, Esq.
Josh Bauers, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
adamgordon@fairsharehousing.org
joshbauers@fairsharehousing.org

Douglas Bern, Esq.
Attorney – Borough Planning Board
Bern & Associates, LLC
39 Park Place, Suite 204
Englewood, NJ 0763
dbern@bernrootlaw.com

Stephanie Wehmann, RMC, CMR
Borough of Alpine - Clerk
Alpine Borough Hall
100 Church Street
PO Box 1095
Alpine, NJ 07620
swehmann@alpinenj.org

Antimo A. DelVecchio
Attorney for Developer
Beattie Padovano, LLC
200 Market Street, Suite 401
Montvale, NJ 07645
ADelVecchio@beattielaw.com

This Notice is intended to inform all interested parties of the existence of the Settlement Agreements and the possible consequences of Court approval of same. It does not indicate any view by the Court, FSHC, or the Court Master as to the merits of the above referenced Mount Laurel action, the fairness, reasonableness, or adequacy of the statement, or whether the Court will approve the settlements.

Dated: November 17, 2023

Stephanie Wehmann
Municipal Clerk
Borough of Alpine