

FILED

March 9, 2026

Hon. Linda Grasso Jones, J.S.C.

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP
OF COLTS NECK,
MONMOUTH COUNTY
PURSUANT TO P.L. 2024,
CHAPTER 2 (N.J.S.A. 52:27D-
304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
MONMOUTH COUNTY
DOCKET NO. MON-L-422-25

Civil Action

Mt. Laurel Program

**DECISION AND ORDER
REGARDING HOUSING ELEMENT
AND FAIR SHARE PLAN (“HEFSP”)
FOR THE FOURTH ROUND
HOUSING CYCLE**

THIS MATTER, having come before the court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment (“DJ Complaint”) filed by the Petitioner, **TOWNSHIP OF COLTS NECK** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24

(“Directive #14-24”) of the ”Program”, seeking a certification of compliance with the FHA;

AND THE COURT, having entered its Decision and Order Fixing Municipal Obligations for “present need” and “prospective need” for the Fourth Round Housing Cycle on April 1, 2025 for the Municipality – specifically, a “present need” obligation of 0 affordable housing units, and a “prospective need” obligation of 101 affordable housing units (collectively, the “Fourth Round Affordable Housing Obligation”);

AND IT APPEARING that, on June 11, 2025, the Municipality adopted its proposed Housing Element and Fair Share Plan (“HEFSP”) for the implementation of its Fourth Round Affordable Obligation, and thus by or before June 30, 2025, as provided for and in accordance with the FHA and Section III.A of Directive #14-24 (as amended), and which Plan contained the elements set forth in the “Addendum” attached to Directive #14-24 (as amended);

AND IT APPEARING that, a challenge to the Municipality’s HEFSP (“Challenges”) was timely and properly filed by Fair Share Housing Center (“FSHC”); 68 Obre Owner, LLC; and Active Acquisitions, LLC (“Challengers”) by and through their counsel, in accordance with the FHA and Section III.B of Directive #14-24, wherein the Challengers disputed, in whole or in part, certain compliance

mechanisms and/or other aspects of the Municipality's proposed HEFSP, as set forth in each Challenge;

AND IT APPEARING that, pursuant to the Program, the Administrative Office of the Courts ("AOC") appointed and assigned the case to Program Member, the Hon. Mary C. Jacobson, A.J.S.C. (Ret.) ("Program Member") to manage the proceedings, host settlement conferences, and make recommendations to the court in accordance with the FHA and the AOC's Directive #14-24, and that the Program Member appointed David J. Banisch, PP/AICP, an independent affordable housing expert, as special adjudicator ("Special Adjudicator") in this case to work with, make recommendations to and assist the Program, and who worked closely with the Program Member;

AND IT APPEARING that, on Monday, November 17, 2025; Wednesday, November 26, 2025; and Tuesday, December 16, 2025, settlement conferences were conducted on notice to all parties with the participation as needed of local officials, town planner, planners for the Challengers, and attorneys for the Municipality and attorneys for the Challengers accordance with the statutory framework and Directive #14-24, and with the goal of reaching a resolution;

AND IT APPEARING that, the parties engaged in extensive settlement negotiations before and during the settlement conferences, with the guidance and assistance of the Program Member and the Special Adjudicator;

AND IT APPEARING that, the parties were unable to reach a settlement as a result of the settlement conferences conducted;

AND IT APPEARING that, the Program Member conducted a Formal Session on December 16, 2025, during which oral argument was heard on the challenges to the Township's HEFSP from the interested parties, as well as the Township's responses to those challenges;

AND THE PROGRAM MEMBER, having considered the extensive filings by the parties, the recommendation of the Special Adjudicator and oral argument, and for reasons more fully set forth in the Statement of Reasons provided by the Program Member dated March 4, 2026, the Program Member recommending upholding the challenges filed by the Challengers and issuance of an Order by this court;

AND THE COURT, having considered the Program Decision Recommendation – Housing Element and Fair Share Plan, the Program Member's Statement of Reasons and the Report of the Special Adjudicator, all filed with the court under Transaction ID No. LCV2026524095 the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

AND THE COURT, having determined that acceptance of the Program Decision Recommendation with attached Statement of Reasons will further the

interests of low- and moderate-income households in the Municipality (collectively, the “Recommendations);

IT IS, THEREFORE, on and as of this **9th day of March, 2026** **ADJUDGED AND ORDERED,** as follows:

1. The HEFSP of the Municipality does not comply with the FHA and the Mount Laurel doctrine.
2. To be brought into compliance, within 30 days, but not later than April 8, 2026, Colts Neck Township shall amend the HEFSP and Land Use Plan of the Master Plan of the Township of Colts Neck designating the Challengers’ three (3) sites for inclusionary zoning as set forth in the table below:

Developer/Site	Total Units	Dwellings per acre (du/ac)	Percentage Set Aside	Affordable Units
68 Obre Owner, LLC, Block 50, Lot 7, -36 -acres	204 (approx.)	5.6 du/ac	20%	40
Active Acquisitions, LLC Block 48, Lots 25.01, 26 & 27, 318-22 Route 537 +/-172-acres	263	1.52 du/ac	20%	53
Active Acquisitions, LLC Block 11, Lot 3.02 151 Dutch Lane Road 38.9 acres	389	10 du/ac	20%	78
			TOTAL:	171

3. Within 60 days, but not later than May 13, 2026, Colts Neck Township shall adopt enabling zoning ordinances to permit development of the projects of the three (3) Challengers in accordance with the table above.
4. Throughout the compliance period (2025-2035), Colts Neck Township shall, within 30 days of receipt of a request for endorsement of an application by any of the three projects identified in the table above to a regulatory agency with jurisdiction over the subject matter, provide the requested endorsement to each of the three parties or their successors in title.
5. Failure to comply with any of the timeframes for action identified in (2), (3) and (4) above will result in immediate revocation of immunity from exclusionary zoning litigation.
6. The challenges to the Colts Neck HEFSP shall continue pending the Township's compliance with the provisions of this order.
7. The Municipality is granted continued immunity from exclusionary zoning litigation on a temporary basis conditioned upon the Municipality's compliance with the terms set forth herein, as may be modified by this court, and conditioned upon the Township's good faith implementation of the amended HEFSP and good faith participation in the compliance process pursuant to the terms set forth in this order.

8. Following May 13, 2026, the court may schedule a Fairness and/or Compliance hearing to consider approval of the Municipality's amended HEFSP and the issuance of a Certification of Compliance and Repose, and/or revoke the Municipality's continued protection of the law and immunity from exclusionary zoning litigation for the reasons set forth in the Statement of Reasons attached to the Program Member's Decision Recommendation, which are accepted and adopted by this court.
9. David Banish, PP/AICP's appointment as Special Adjudicator is continued in this matter, with the cost of his services to be split among the Municipality and any of the developer Challengers that continue to participate in this matter before this court.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and counsel for all Challengers upon its posting by the court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

/s/ Linda Grasso Jones, J.S.C.

HON. LINDA GRASSO JONES, J.S.C.

Designated Mt. Laurel Judge- Monmouth Vicinage

(X) Challenged.

SEE ATTACHED RIDER/STATEMENT OF REASONS

Rider/Statement of Reasons pursuant to R. 1:7-4(a):

Having reviewed and considered the Program Member's Report and Recommendations and the Special Adjudicator's Recommendation and Statement of Reasons, the court is satisfied that the above constitutes an appropriate resolution of the Township of Colts Neck's Round IV Mount Laurel obligation. If the Township of Colts Neck chooses not to adopt a HEFSP consistent with the recommendations of the Special Adjudicator and the Program Member, as provided for in the above order, Colts Neck will lose the temporary immunity granted in the within order and the issue of Colts Neck's Round IV obligation will need to be resolved in litigation to be addressed before the court.

The court is satisfied that if Colts Neck does adopt a HEFSP as provided in the Program Member's Recommendation and above order, the HEFSP will provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the Municipality, and thereby is in the best interests of the protected class of low- and moderate-income households in the Municipality.

Accordingly, the court hereby adopts in full the Report and Recommendations of the Program Member and accepts the same for the detailed findings and reasons set forth therein. As a result, if the Municipality takes the actions set forth above, the Municipality retains all the protections of the above-referenced amendments to the FHA, continues to retain immunity from exclusionary zoning litigation, and the court retains jurisdiction for the Municipality's adoption of implementing ordinance in accordance with the statutory framework and AOC Directive #14-24, and thereupon, the court's issuance of a Certification of Compliance.

SO ORDERED:

/s/ Linda Grasso Jones, J.S.C.

HON. LINDA GRASSO JONES, J.S.C.

Designated Mt. Laurel Judge- Monmouth Vicinage