

**COUNCIL OF THE BOROUGH OF ENGLEWOOD CLIFFS
BERGEN COUNTY, NEW JERSEY**

**RESOLUTION
RESOLUTION NO. 26-86**

**TITLE: RESOLUTION AUTHORIZING THE BOROUGH ATTORNEY TO
EXECUTE A CONSENT ORDER FOR CONDITIONAL
COMPLIANCE CERTIFICATION (AFFORDABLE HOUSING)**

WHEREAS, the Borough of Englewood Cliffs (the “Borough” or “Englewood Cliffs”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action on January 30, 2025; and

WHEREAS, the Court entered an order on May 5, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of zero (0) units and a Prospective Need of three hundred twenty-nine (329) units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 30, 2025; and

WHEREAS, FSHC having filed a letter pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 29, 2025, seeking additional information and documentation before the HEFSP may be approved by the Program and trial court; and

WHEREAS, no other interested party filed a challenge or any other communication; and

WHEREAS, FSHC has proposed a consent order, attached hereto as Exhibit “A” in order to resolve all the Borough’s Fair Share Obligations for the Fourth Round; and

WHEREAS, the proposed consent order is consistent with the Borough’s HEFSP; and

WHEREAS, it is in the best interests of the Borough to execute the proposed Consent Order.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Englewood Cliffs, that the Borough Attorney is hereby authorized to execute and deliver

the proposed Consent Order on behalf of the Borough.

CERTIFICATION

I hereby certify that this resolution, consisting of 2 page(s) was adopted at a Regular Meeting of the Borough Council of the Borough of Englewood Cliffs, held this 11th day of February 2026.

	Moved	Second	Ayes	Nays	Abstain	Absent
Mayor Park						
Lee						
Biegacz						
Liang						
Patel						
Koutroubas						
Kapsaskis						

Mark Park
Mayor

Beauty Nadim, RMC/CMR
Municipal Clerk

Fair Share Housing Center

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By: Ariela Rutbeck-Goldman, Esq. (209022016)
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**In the Matter of the Application of the
Borough of Englewood Cliffs, County of
Bergen.**

SUPERIOR COURT OF NEW JERSEY
Law Division, Bergen County
Docket No. BER-L-775-25

**CIVIL ACTION
(Mount Laurel)**

**Consent Order Conditional Compliance
Certification (N.J.S.A. 52:27D-304(q))**

THIS MATTER having come before the Court via the joint request of the Borough of Englewood Cliffs, via counsel Robert A. Ferraro, Esq. (of Bruno & Ferraro, Esqs.) as well as Fair Share Housing Center, via counsel Ariela Rutbeck-Goldman, Esq. (on behalf of Fair Share Housing Center); and

WHEREAS, the Borough of Englewood Cliffs (the “Borough” or “Englewood Cliffs”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action on January 30, 2025; and

WHEREAS, the Court entered an order on May 5, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of zero (0) units and a Prospective Need of three hundred twenty-nine (329) units, which no party appealed, and ordering the

Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 30, 2025; and

WHEREAS, FSHC having filed a letter pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 29, 2025 seeking additional information and documentation before the HEFSP may be approved by the Program and trial court; and

WHEREAS, no other interested-party filed a challenge or any other communication; and

WHEREAS, the Court having reviewed the Borough’s HEFSP, attachments, and proposed implementing ordinances and resolutions and determined that they meet the “objective standard” and are in compliance with the Fair Housing Act and the Mount Laurel doctrine so long as the conditions set forth in this order are met;

WHEREAS, the Court incorporates the Court’s prior orders and for good cause shown:

IT IS on this _____ day of _____, 2026, **ORDERED**
as follows:

1. Subject to the satisfaction of the Conditions in Paragraph 7 of this Order and the deadlines established therein, the Borough of Englewood Cliffs’s Fourth Round Fair Share Plan (Exhibit P-1) is hereby approved and deemed to meet the “objective standard” pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) of complying with the Fair Housing Act and the Mount Laurel doctrine and the Borough is granted a Compliance Certification as to its Rehabilitation Obligation (“Present Need”), its Prior Round Obligation (1987-1999), its Third Round Obligation

(consisting of both its Gap Obligation for 1999-2015 and its Prospective Need Obligation for 2015-2025), and its Fourth Round obligation pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.)(“FHA”), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) (“UHAC”), applicable Council on Affordable Housing (hereinafter “COAH”) substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court’s Mount Laurel IV decision.

2. The Borough’s Compliance Certification shall remain in effect for ten (10) years beginning on July 1, 2025 and ending on June 30, 2035, and during this ten (10) year period the Borough shall have repose from exclusionary zoning litigation, including, but not limited to, Builder’s Remedy lawsuits, as provided for in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq.
3. The Borough’s Present Need or Rehabilitation Obligation is zero (0), the Borough’s Prior Round Obligation (1987-1999) is two hundred and nineteen (219), the Borough’s Third Round Obligation (1999-2025) is three hundred sixty-five (365), the Borough’s Fourth Round Prospective Need (2025-2035) is three hundred twenty-nine (329).
4. The Borough does not have a present need obligation to address in the Fourth Round.
5. The Borough’s Prior Round Obligation is 219, and the Borough’s Third Round prospective need is 365.

- a. The 187-unit Third Round RDP shall be satisfied as follows:

Table 30 : Projects Addressing the Borough's Third Round RDP Borough of Englewood Cliffs, Bergen County, NJ				
BOROUGH RDP	187			
	Completed Units	Proposed Units	Rental Bonuses	Total
<i>Proposed Affordable Housing Sites</i>				
100% Affordable Site		65	46	111
Hudson Terrace/Michaels Development/ "Cliffs on Hudson" (Municipally Sponsored 100% Affordable Site) (Approx. 2.3 +/- acres - Block 514, Lots 4 & 5; Block 513, Lots 5 & 7, and approximately 0.25-acre vacated portion of Clendinen Place)		65 (F)(R)	46 (BC)	111
Inclusionary Sites		102	-	102
New LG / North Woods (3.5-acre portion - Block 207, Lot 6)		12	-	12

b. The 371-unit Unmet Need shall be addressed as follows:

Table 31 . Projects and Mechanisms Addressing the Third Round Unmet Need Borough of Englewood Cliffs, Bergen County, NJ			
Unmet Need	371		
Mechanism	Completed Units	Proposed Units	Total
Hudson Terrace Overlay Zone		62 (78) ⁽¹⁾	62 (78) ⁽¹⁾
East Palisades Overlay Zone		38 (48) ⁽¹⁾	38 (48) ⁽¹⁾
B-3 Zone District Overlay Zone		31 (39) ⁽¹⁾	31 (39) ⁽¹⁾
Northern Sylvan Avenue Corridor Mixed Use Overlay Zones (A)			
910, 910-920, 930-940 Sylvan Avenue		194	194
1000 Sylvan Avenue		36	36
Northern Sylvan Avenue Corridor Mixed Use Overlay Zones (B)			
980 Sylvan Avenue		9	9
1000 Sylvan Avenue		10 (15) ⁽²⁾	10 (15) ⁽²⁾
Sisters of St. Joseph of Peace Site		16 ⁽³⁾	16 ⁽³⁾
Remaining Rental Bonus Credits (25% Cap)		100	100
TOTAL CREDITS AND UNITS		496 (535)	
⁽¹⁾ Projects with residential or mixed-use options (mixed-use unit numbers in parentheses)			
⁽²⁾ Projects with non-age-restricted or age-restricted options (age-restricted unit numbers in parentheses)			
⁽³⁾ Units shall be age-restricted			

6. The Borough's Fourth Round Obligation is 329 and has been adjusted through a vacant land adjustment (VLA), resulting in an RDP of 10 and an Unmet Need of 319.

- a. The 10-unit RDP shall be met as follows:

Table 32 . Existing and Proposed Projects Addressing the Fourth Round RDP Borough of Englewood Cliffs, Bergen County, NJ						
BOROUGH RDP	10					
	Completed Units	Proposed Units	L	M	VL	Total
Cioffi Site (20-32 Sylvan Avenue and 4 Bayview Avenue; Block 201, Lots 10-14, Block 205, Lots 1,2, & 4)		10 (F)(R)	-	-	-	10
TOTAL UNITS						10
Bonus Credits (2.5 maximum based on 25% of 10-unit RDP)						2.5
TOTAL CREDITS AND UNITS						12.5
(R) = Rental (BC) = Bonus Credit (F) = Family						

- i. The Cioffi Site is eligible for 2.5 bonus credits from redevelopment on "land that is or was previously developed and utilized for retail, office, or commercial space." N.J.S.A. 52:27D-311(k)(6). The site is currently developed with buildings that currently or formerly operated as commercial/office uses.
- b. The surplus 2.5 credits from RDP shall be applied to the Unmet Need, resulting in a remaining obligation of 316.5 units which shall be addressed through the following mechanisms:

Table 33 . Existing and Proposed Projects Addressing the Fourth Round Unmet Need Borough of Englewood Cliffs, Bergen County, NJ						
Fourth Round Unmet Need	316.5					
	Completed Units	Proposed Units	L	M	VL	Total
New Overlay Zones		177 (213) ⁽¹⁾	-	-	-	177 (213) ⁽¹⁾
New Southern Sylvan Ave Corridor Overlay Zone C		11 (14) ⁽¹⁾	-	-	-	11 (14) ⁽¹⁾
New Southern Sylvan Ave Corridor Overlay Zone D		166 (199) ⁽¹⁾	-	-	-	166 (199) ⁽¹⁾
Other Mechanisms		60	-	-	-	60
Mandatory Set-Aside Ordinance (MSO)		60	-	-	-	60
Remaining Bonus Credits to Reach 25% Cap						79.5
TOTAL CREDITS AND UNITS	316.5					
⁽¹⁾ Projects with residential or mixed-use options (mixed-use unit numbers in parentheses)						

- i. Upon the potential completion of these Unmet Need mechanisms, the RDP may be recalculated in accordance with Paragraph 10, and the Borough may be eligible for additional bonus credits depending on the specifications of the project. The Borough may not receive bonus credits towards its Unmet Need obligation pursuant to N.J.A.C. 5:97-5.3(c), and the remaining potential 79.5 bonus credits are currently hypothetical.

7. The Borough's Compliance Certification is deemed conditional until the following conditions are met:
- a. The Borough shall provide the following administrative documents within thirty (30) days:

- b. The Borough will provide site plan approval, a construction timetable, and deed restrictions when available for the Cioffi site, currently undergoing review before Special Hearing Officer Maurice J. Gallipoli (ret.).
 - c. The Borough shall prepare and adopt a Spending Plan that complies with the regulations at N.J.A.C. 5:99 before March 15, 2026.
 - d. The Borough shall update its Affordable Housing Ordinance, Development Fee Ordinance, Affirmative Marketing Plan, and other administrative documents in accordance with the regulations at N.J.A.C. 5:80-26.1, et seq, and N.J.A.C. 5:99 before March 15, 2026.
8. No later than 48 hours after adoption or March 16, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 7 and any other adopted ordinances and resolutions on eCourts.
9. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review, or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
10. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in Fair Share Housing Center v. Cherry Hill, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC.

The Borough agrees that any additional RDP generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.

11. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

- a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.
- b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.

- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

12. A copy of this Order shall be entered on eCourts and shall be effective as of the date of filing.

Hon. Lina P. Corrison, J.S.C.

On behalf of the Borough of Englewood Cliffs:

Robert A. Ferraro, Esq.

On behalf of Fair Share Housing Center:

Ariela Rutbeck-Goldman, Esq.