

Keli (DTPB-2001C)
Order on Fairness Hearing (Denville)
050118

FILED

MAY 07 2018

Maryann L. Nergaard
J.S.C.

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IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF DENVILLE, a municipal
corporation of the State of New Jersey,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MORRIS COUNTY

DOCKET NO.: MRS-L-1641-15

CIVIL ACTION
(Mount Laurel)

**PARTIAL JUDGMENT AND APPROVAL
OF CERTAIN AFFORDABLE HOUSING
SETTLEMENT AGREEMENTS WITH
GLENMONT COMMONS LLC AND
WITH RAM ASSOCIATES, LLC**

THIS MATTER having been opened to the Court by Edward J. Buzak, Esq. of The Buzak Law Group, LLC on behalf of the Plaintiff/Petitioner, Township of Denville ("Township") via a Declaratory Judgment Action ("DJ Action") filed on July 1, 2015 in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mount Laurel IV") and requesting judicial approval of the Township's amended Housing Element and Fair Share Plan ("HEFSP"); and the Court having granted the Township immunity from all Mount Laurel lawsuits, which immunity currently remains in full force and effect; and the Court having appointed Philip B. Caton, P.P., F.A.I.C.P. as the Special Master in this matter ("Special Master"); and Glenmont

Commons Developers, LLC ("Glenmont Commons") and RAM Associates, LLC ("RAM") having participated in the Township's DJ Action as Interveners; and the Township having entered into Settlement Agreements with Glenmont Commons and RAM, which Settlement Agreements set forth the terms and conditions governing the construction of inclusionary developments by Glenmont Commons and RAM that will contribute to the satisfaction of the Township's affordable housing obligations; and the Settlement Agreements and supporting ordinances having been placed on file for public inspection and submitted to the Court and Special Master for their review and approval; and the Township having provided sufficient notice that the Court scheduled a Fairness Hearing regarding the Settlement Agreements for April 20, 2018 at 1:30 pm; and the Special Master Philip Caton, having filed a Report dated April 18, 2018 regarding the fairness of the Settlement Agreements and which recommended that the Court approve the same; and the Court having conducted the Fairness Hearing on April 20, 2018 in the presence of The Buzak Law Group, LLC, Counsel for Plaintiff/Petitioner the Township of Denville (Edward J. Buzak, Esq. appearing), Wilf Law Firm, LLP, Counsel for Intervener Glenmont Commons Developers LLC (Brett Tanzman, Esq. appearing), Bisgaier Hoff, LLC, Counsel for Intervener RAM Associates, LLC (Robert Kasuba, Esq. appearing), Abe Rappaport, Esq., Counsel for Intervener 382 Franklin LLC (Jeffrey Kantowitz, Esq. appearing), Fox Rothschild LLP, Counsel for Intervener US Home d/b/a Lennar (Irina Elgart, Esq. appearing), and the Special Master Philip Caton and the Court having heard the testimony of witnesses for the Township of Denville, from the Special Master Philip Caton and from a member of the public, the argument and position of Counsel and after having reviewed the Special Master's Fairness Report and all Exhibits and materials provided; and the Court being of

the view that the Settlement Agreements should be approved and immunity continued; and for good cause shown

It is on this 17th day of May 2018 **ORDERED AND ADJUDGED** as follows:

1. The Township has provided sufficient notice of the Fairness Hearing to the public and all interested parties.

2. The Settlement Agreements entered into between (1) the Township and Glenmont Commons (Exhibit P-5 in evidence) and (2) the Township and RAM (Exhibit P-6 in evidence) are hereby determined to be fair and reasonable; to be in the range of possible outcomes were this case fully litigated; to represent a realistic opportunity for the provision of affordable housing to the protected class of low and moderate income families; to represent a practical solution for the construction of affordable housing units; and to achieve the goals of the Fair Housing Act (N.J.S.A. 52:27D-301, *et seq.*) by helping the Township satisfy its affordable housing obligations.

3. The parties are directed and ordered to implement the Settlement Agreements in accordance with their terms.

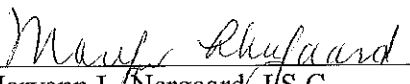
4. The previous orders entered by the Court granting immunity to the Township of Denville from builder's remedy lawsuits be and is hereby continued in full force and effect pending further Order of this Court.

5. The oral opinion of this Court, issued on April 20, 2018, be and the same is hereby incorporated herein as if set forth at length.

6. The Court retains jurisdiction for the limited purpose of enforcing the terms and conditions of the Settlement Agreements entered into between (1) the Township and Glenmont Commons (Exhibit P-5 in evidence), and (2) the Township and RAM (Exhibit P-6 in evidence).

The Court will entertain and consider Consent Orders to which the affected parties have agreed relating to compliance with time periods set forth in this approved Settlement Agreements. Any failure to comply with the terms and conditions of the Settlement Agreements may be enforced through the filing of a motion to enforce litigant's rights with this Court.

7. A copy of the within Order shall be served on all parties within 7 days from the date of entry of this Order.



Hon. Maryann L. Nergaard, J.S.C.