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IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF VERONA, a
Municipal Corporation of the State of New
Jersey

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY: LAW DIVISION
DOCKET NO. ESX-L-594-25

Civil Action

**ANSWER TO COMPLAINT FOR
DECLARATORY JUDGMENT AND
CHALLENGE TO MUNICIPAL
HOUSING ELEMENT AND FAIR
SHARE PLAN PURSUANT TO AOC
DIRECTIVE #14-24**

Defendant / Interested Party A & R Skyline Properties LLC, with offices at 704 Passaic Avenue, West Caldwell, NJ 07006, by way of Answer and challenge to the Complaint filed by the Township of Verona, says:

AS TO THE NATURE OF THE ACTION

1. Admitted.
2. The allegations contained in Paragraph 2 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The cases cited by the Township speaks for itself and are the best evidence of their contents. To the extent that any of the allegations contained in Paragraph 2 mischaracterize the contents or effect of the cases, those allegations are denied.
3. The allegations contained in Paragraph 3 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The statute cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any

of the allegations contained in Paragraph 3 mischaracterize the contents or effect of the statute, those allegations are denied.

4. The allegations contained in Paragraph 4 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The directive cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 4 mischaracterize the contents or effect of the directive, those allegations are denied.
5. The allegations contained in Paragraph 5 of the Township's Complaint assert legal arguments/conclusions to which no response is required.

AS TO JURISDICTION AND VENUE

6. The allegations contained in Paragraph 6 of the Township's Complaint assert legal arguments/conclusions to which no response is required.
7. The allegations contained in Paragraph 7 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The statute and directive cited by the Township speak for themselves and are the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 7 mischaracterize the contents or effect of the statute or directive, those allegations are denied.
8. The allegations contained in Paragraph 8 of the Township's Complaint assert legal arguments/conclusions to which no response is required.

AS TO FACTUAL AND PROCEDURAL BACKGROUND

9. This Defendant does not have sufficient knowledge as to the truth of the allegations contained in this paragraph, and, as such, leaves Plaintiff to its proofs.
10. This Defendant does not have sufficient knowledge as to the truth of the allegations contained in this paragraph, and, as such, leaves Plaintiff to its proofs.
11. The allegations contained in Paragraph 11 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The statute cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 11 mischaracterize the contents or effect of the statute, those allegations are denied.
12. Admitted.
13. Admitted.

14. The allegations contained in Paragraph 14 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The statute cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 14 mischaracterize the contents or effect of the statute, those allegations are denied.
15. Denied.
16. Denied.
17. Denied.
18. Admitted as to the content of the Resolution submitted by the Township.

AS TO THE ALLEGATIONS IN COUNT ONE

19. This Defendant repeats its responses to the allegations set forth above as though fully set forth herein at length.
20. Admitted.
21. Admitted.
22. The allegations contained in Paragraph 22 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The directive cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 22 mischaracterize the contents or effect of the directive, those allegations are denied.
23. The allegations contained in Paragraph 23 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The directive cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 23 mischaracterize the contents or effect of the directive, those allegations are denied.
24. The allegations contained in Paragraph 24 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The directive cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any of the allegations contained in Paragraph 24 mischaracterize the contents or effect of the directive, those allegations are denied.
25. Denied.
26. The allegations contained in Paragraph 26 of the Township's Complaint assert legal arguments/conclusions to which no response is required.

AS TO THE ALLEGATIONS IN COUNT TWO

27. This Defendant repeats its responses to the allegations set forth above as though fully set forth herein at length.
28. Admitted.
29. Admitted.
30. Admitted.
31. This Defendant does not have sufficient knowledge as to the truth of the allegations contained in this paragraph, and, as such, leaves Plaintiff to its proofs.
32. Denied.
33. This Defendant does not have sufficient knowledge as to the truth of the allegations contained in this paragraph, and, as such, leaves Plaintiff to its proofs.

AS TO THE ALLEGATIONS IN COUNT THREE

34. This Defendant repeats its responses to the allegations set forth above as though fully set forth herein at length.
35. Admitted.
36. Admitted.
37. This Defendant does not have sufficient knowledge as to the truth of the allegations contained in this paragraph, and, as such, leaves Plaintiff to its proofs.
38. Denied.
39. Denied.

AS TO THE ALLEGATIONS IN COUNT FOUR

40. This Defendant repeats its responses to the allegations set forth above as though fully set forth herein at length.
41. The allegations contained in Paragraph 41 of the Township's Complaint assert legal arguments/conclusions to which no response is required. The statute cited by the Township speaks for itself and is the best evidence of its contents. To the extent that any

of the allegations contained in Paragraph 41 mischaracterize the contents or effect of the statute, those allegations are denied.

42. Denied.

43. Denied.

WHEREFORE, Defendant demands the following relief,

- a. Denial of the Township's request for declaratory relief.
- b. A declaration that the Township has not provided a realistic opportunity for its fair share of the regional need of affordable housing.
- c. An order directing the Township to adopt a constitutional, lawful, and valid Housing Element and Fair Share Plan to address its Fourth Round Need and Prospective Need.
- d. An order directing the Township to adopt a compliance plan, and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution.
- e. Such other relief as the court deems just and equitable.

CHALLENGE TO PLAINTIFF'S HOUSING ELEMENT AND FAIR SHARE PLAN

1. Defendant A & R Skyline Properties LLC is a New Jersey limited liability company and is the owner of property in the Township of Verona at 885 Bloomfield Avenue, formally designated as Block 2205, Lot 6 on the tax map of the Township of Verona.

2. Pursuant to Directive #14-24 of the Administrative Office of the Courts, Defendant files this challenge to the Township of Verona's housing element and fair share plan.

3. This challenge is filed by way of an answer to the Plaintiff's declaratory judgment Complaint.

4. Defendant challenges the Township's housing element and fair share plan as it is not in compliance with the Fair Housing Act, (N.J.S.A. 52:27D-301 et al.) and the Mount Laurel doctrine.

5. Defendant is the owner of a 1.77 acre site located at 855 Bloomfield Avenue, Block 2205, Lot 6 in the Township of Verona (the "Property").

6. The Property is currently in the A-3 Residential Townhouse zone district where townhouses are conditional uses. The density assigned to townhouses on the Property is 12 dwelling units per acre.

7. Over the past six years, Defendant has had numerous discussions with Township officials regarding the development of the Property, including several meetings with the Township manager, Township attorney and Township planner to present and discuss residential projects that could provide affordable housing units for the Township.

8. In connection with these discussions, the Township conducted a study of the Property in January 2019 and determined that the Property was an area in need of redevelopment that could assist the Township in meeting its municipal obligation to provide affordable housing, but the Township never adopted a Redevelopment Plan for the Property.

9. Pursuant to this Court's April 7, 2025 Decision and Order, the present need obligation of the Township is 0 affordable units and the prospective need obligation is fixed as 155 affordable units for the Fourth Round housing cycle.

10. In furtherance of the Decision and Order, the Township submitted its Fourth Round Housing Element and Fair Share Plan on June 23, 2025.

11. The Plan recognized the Township's prospective need obligation at 155 affordable units but conducted a vacant land analysis to reduce its obligation. As a result, the Township asserts that the Township's realistic development potential is just 57 units.

12. The vacant land analysis in Appendix 4 to the Fair Share Plan included the Defendant's Property but at a density of 10 units per acre, when the current zoning would permit townhouses with a density of 12 dwelling units per acre.

13. The vacant land analysis does not accurately provide the Township's realistic development potential.

14. The Township in its Fair Share Plan has proposed eight (8) sites, including Defendant's Property, to satisfy its prospective need obligation. With this minimal commitment, the Township should provide as much density as feasible on these 8 sites to provide affordable housing and to meet its constitutional obligation.

15. The Township has included Defendant's Property in its Plan, and provided in Appendix 15 Defendant's discussion of its proposal to develop 60 units on the Property, or 40 dwelling units per acre. This proposal sets forth an economically feasible development that can provide 12 affordable housing units towards the Township's prospective need obligation.

16. The Township in its Plan has recognized that the Property is an available site, as there are no deed restrictions or other legal encumbrances to the redevelopment of the site for low- and moderate-income housing.

17. The Township in its Plan has recognized that the Property is a suitable site, with direct street access as well as bus service, and is located in the Bloomfield Avenue Commercial corridor which includes commercial, mixed-use and multi-family developments.

18. The Township in its Plan has recognized that the Property is a developable site that is served by public water and sewer.

19. The Township in its Plan has recognized that the Property is an approvable site that may be developable consistent with the Residential Site Improvement Standards.

20. Defendant has sought to work with the Township to provide an inclusionary development on the Property. Defendant has had several meetings with Township officials in furtherance of the redevelopment of the Property, and the Township planner has reviewed Defendant's proposals and has provided comments with respect to the design and standards. Defendant also understands that Defendant's proposals have been discussed in executive sessions at Township council meetings.

21. Even though the Township was well aware of Defendant's proposals and Defendant has incorporated the Township's comments in its plans, the Township's Fair Share Plan did not adopt Defendant's proposals. Instead, the Fair Share Plan proposed a minimum of 19 total units on Defendant's Property, with at least 2 special needs bedrooms and at least 2 affordable family units.

22. As Defendant has advised the Township, the density proposed by the Township would not be financially feasible and would not result in the creation of any affordable housing units.

23. The Township has recognized that Defendant's Property is available, suitable, developable and approvable, but the density proposed by the Township for the Property is not economically viable and will not lead to the construction of affordable housing.

24. In support of this challenge, Defendant relies on the Report of John Barree, PP, AICP dated August 28, 2025 and annexed as Exhibit A. As set forth in that Report, the Township's housing element and fair share plan does not satisfy the Township's constitutional obligation to provide opportunities to construct housing affordable to low- and moderate-income households. Defendant is ready, willing and able to proceed with a realistic 60 unit development that can

provide a substantial contribution to the Township's affordable housing obligation, and the Township should include this project in its Fourth Round Plan.

WHEREFORE, Defendant A & R Skyline Properties LLC. demand judgment be entered in its favor and against Plaintiff as follows:

- a. Denying all relief sought by Plaintiff in its Complaint;
- b. Declaring that the Township's Housing Element and Fair Share Plan is not in compliance with the Fair Housing Act and the Mt. Laurel doctrine.
- c. Ordering the Township to revise its Housing Element and Fair Share Plan to provide a realistic development on Defendant's property at a density that is financially feasible and will lead to the production of affordable housing.
- d. Declaring that Plaintiff is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy Plaintiff's fair share of the unmet regional need for such housing;
- e. Denying Plaintiff's request for immunity from exclusionary zoning litigation for the Fourth Round.
- f. Awarding attorneys' fees;
- g. Awarding costs of suit; and
- h. Awarding such other relief as the Court deems equitable and just.

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Defendant / Interested Party
A&R Skyline Properties LLC

By: 

Steven Firkser

Dated: August 29, 2025

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, the undersigned attorneys for Defendant certify to the best of their knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated, other than the following actions:

At the present time, Defendant knows of no other parties who should be joined in the within action.

CERTIFICATION PURSUANT TO R. 1:38

I certify that confidential personal identifiers, if any, have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with the Rules of Court.

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Defendant / Interested Party
A & R Skyline Properties LLC

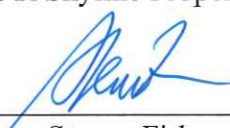
By: 
Steven Firkser

Dated: August 29, 2025

CERTIFICATION OF SERVICE

I hereby certify that the within pleading was filed and served within the time prescribed by Rule 4:6-1 and Directive #14-24.

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Defendant / Interested Party
A & R Skyline Properties LLC

By: 
Steven Firkser

Dated: August 29, 2025

EXHIBIT A

Report of John Barree, PP, AICP dated August 28, 2025

Objection to Township of Verona's Fourth Round Housing Element and Fair Share Plan

Prepared for: A&R Skyline Properties, LLC

August 28, 2025



PO Box 45
Atlantic Highlands, NJ 07716

A handwritten signature in black ink, appearing to read 'J. Barree', is written over the printed name and license information.

John Barree, PP, AICP, LEED Green Associate
License #: 33LI00627000

*The original of this report was appropriately signed and sealed in accordance
with N.J.S.A. 45:14A and N.J.A.C. 13:41-1.3(b)*

DRAFT - Objection to the Township of Verona's Fourth Round Housing Element and Fair Share Plan
Prepared on behalf of A&R Skyline Properties, LLC
August 28, 2025

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DRAFT - Objection to the Township of Verona's Fourth Round Housing Element and Fair Share Plan
Prepared on behalf of A&R Skyline Properties, LLC
August 28, 2025

Introduction

This Report provides a review and analysis of the Township of Verona's ("Township" or "Verona") Fourth Round Housing Element and Fair Share Plan ("HEFSP"), adopted by the Township's Planning Board on June 19, 2025. This report is written in conformance with the Fair Housing Act, as amended.

A&R Skyline Properties, LLC, ("Owner" or "Property Owner") the owner of 885 Bloomfield Avenue, Block 2205, Lot 6 (the "Site" or "Property"), has been in discussions about the development of inclusionary housing at the Site since 2019. Over the last six years, the Township designated the property in need of redevelopment, worked with the owner to develop a draft redevelopment plan based on a 60 unit proposal, failed to adopt the redevelopment plan that was drafted, considered a 38 unit proposal from the owner, and then most recently included the property in the Fourth Round HEFSP with a total unit count of 19, which is less than half the minimum density that would create a financially viable and "realistic" project.

This Report demonstrates the viability of a 60 unit proposal and notes that the Township did not properly create a realistic development opportunity for the Site while continuing to have a significant remaining unmet affordable housing need in the Fourth Round. The property at 885 Bloomfield Avenue is available, approvable, developable, and suitable for the development of affordable housing and will help the Township address its constitutional obligation to provide opportunities for the construction of affordable housing. Given the lack of vacant and developable land in the Township, the subject property offers a unique opportunity to meet a substantial component of the Township's affordable housing obligation.

Site and Project Description

The Site is located at 885 Bloomfield Avenue immediately adjacent to the municipal boundary with Essex Fells and diagonally across from North Caldwell. The Site is an approximately 1.77 acre parcel with over 500 feet of frontage along the south side of Bloomfield Avenue in the A-3 Residential Townhouse Zone District. The A-3 Zone permits residential development including conditionally permitting townhouse developments with a sliding density based on lot area. For lots under four acres in area, 12 units per acre are permitted.

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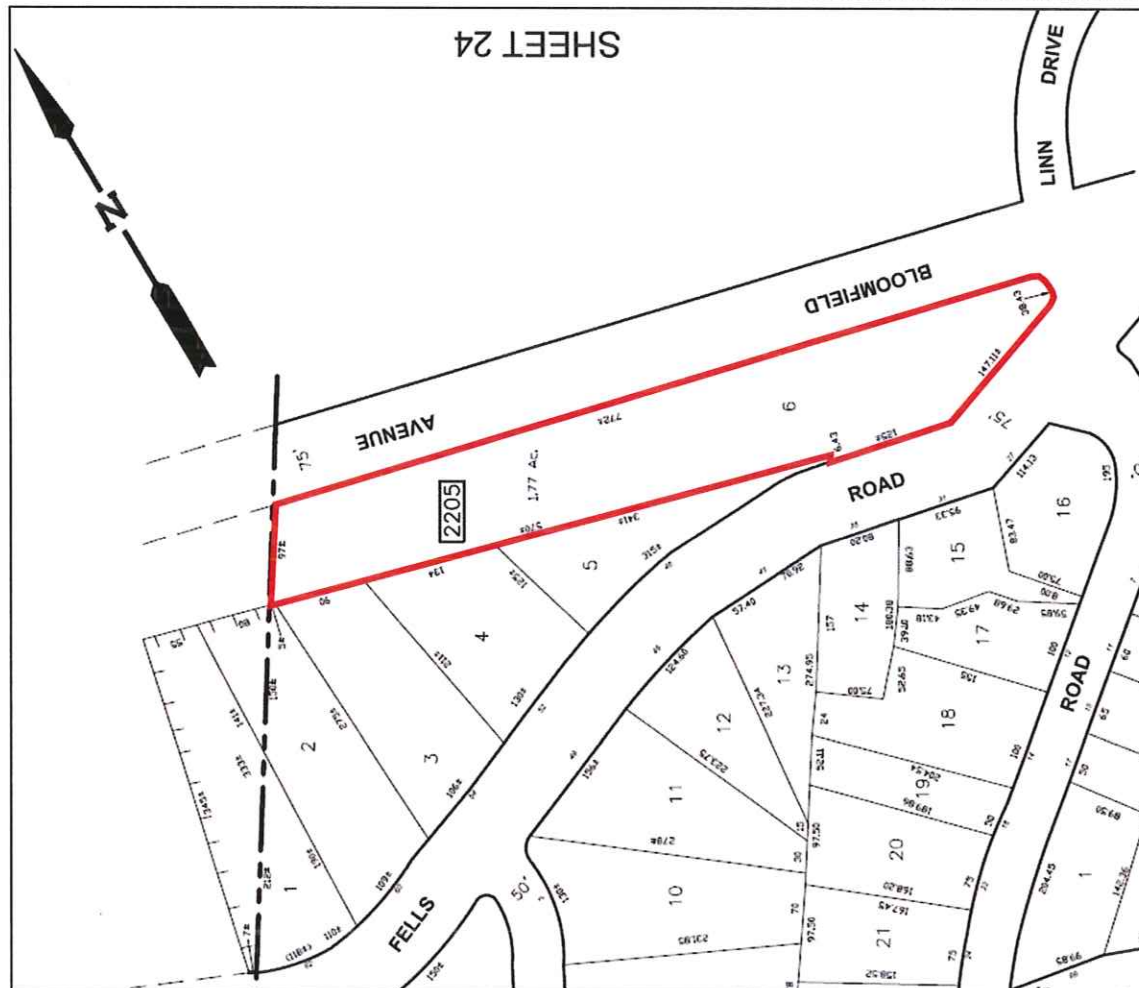


Figure 1 – Excerpt of Verona Tax Map

The Property slopes up along its frontage on Bloomfield Avenue and then flattens out. The southeast corner of the Site slopes up to Fells Road, which sits at a higher elevation. Aside from some areas of steep slopes, portions of which were likely artificially created, the site is not encumbered with any environmentally sensitive features.

Surrounding the Property is a mixture of residential, civic, and commercial uses. The property immediately to the west in Essex Fells is developed with a residential building that is similar in scale and concept to the plan proposed for the Site. The Essex County Department of Public Works, Centennial and Veterans Fields, the Verona Community Center, and Verona Fire Department are located immediately across Bloomfield Avenue. The Verona Flats project, a 100% affordable apartment building is located northeast of the Site at the corner of Linn Drive and Bloomfield Avenue. The properties to the south are single-family residential homes that front on Fells Road.

The Property Owner is seeking realistic zoning to develop a 60 unit project, of which 12 units (20%) will be affordable. The proposed units will be a mix of townhouses and apartments. The Property Owner previously partnered with MarkBuilt, who undertook site plan design work to address the building and parking layout,

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stormwater management, and utility design based on the belief that the Township would adopt a redevelopment plan to permit the requested development.

Suitability Analysis

N.J.A.C. 5:93-1.3 Analysis

The Site and proposed development at 885 Bloomfield Avenue satisfy the development criteria under the Second Round Rules (N.J.A.C. 5:93-1.3), which are still the criteria used to determine if a site is suitable for affordable housing development. Sites intended to produce affordable housing must prove that they are available, approvable, developable, and suitable for the development of affordable housing. The Township's HEFSP includes a suitability analysis for the property and does not dispute that it meets all four prongs of the test.

AVAILABLE – an “available site” is a site that is with clear title and free of encumbrances that would preclude development for low- and moderate-income housing. The Site has no title issues or encumbrances that would hinder the development of affordable housing. The owner of the Site has been in discussions with the Township for over six years with the hope of developing an inclusionary project.

APPROVABLE – an “approvable site” is a site that can be developed with low- and moderate-income housing in a manner consistent with the rules and regulations of all agencies with jurisdiction over the site. A site may be considered “approvable” even if not currently zoned for low- and moderate-income housing. The proposed development can be implemented in a manner that is consistent with the rules and regulations of applicable agencies, such as the Uniform Housing and Affordability Controls, the Residential Site Improvement Standards, and all applicable NJDEP permits.

DEVELOPABLE – a “developable site” is one that has access to appropriate water and sewer infrastructure and is consistent with the applicable area water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan, submitted and reviewed by NJDEP. The site has access to public water and sewer and all other required infrastructure.

SUITABLE – a “suitable site” means a site that is adjacent to compatible land uses, has access to appropriate streets, and is consistent with the environmental policies found in N.J.A.C. 5:93-4. The proposed site is within close proximity of civic, recreational, commercial, and other residential uses. The site has direct access to Bloomfield Avenue, a major mixed-use thoroughfare, not only in Verona but throughout Essex County. NJ Transit bus service is available with stops on the Site's Bloomfield Avenue frontage and across the street. The site is suitable for inclusionary multi-family residential development.

State Development and Redevelopment Plan

In addition to satisfying the development criteria of the Second Round Rules, the Third Round Rules (N.J.A.C. 5:97-3.13) and the 2024 amendment to the Fair Housing Act, potential sites for affordable housing developments should also be consistent with the State Development and Redevelopment Plan. Sites that are located in Planning Areas 1 or 2 or located within a designated center or within an existing sewer service area are the preferred location for municipalities to address their fair share obligation.

The entire Site is within Planning Area 1 and within an existing sewer service area.

The Site is clearly suitable for inclusionary development, which is corroborated by the Township's HEFSP.

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Township of Verona's 2025 Fourth Round Housing Element and Fair Share Plan

The Verona Township Planning Board adopted a Fourth Round Housing Element and Fair Share Plan on June 15, 2025. The Plan does not properly review how the Township's Prior and Third Round Obligations were satisfied. The Plan identifies proposed mechanisms for the Fourth Round Prospective Need Obligations. The following section reviews and critiques the adopted Plan and its proposed compliance mechanisms.

Affordable Housing Obligations

The Township's affordable housing obligations are:

Present Need	0
Prior Round obligation (1987-1999)	24
Third Round obligation (1999-2025)	215
Fourth Round (2025-2035)	155

The Fourth Round HEFSP does not include a review of the Prior Round and Third Round obligations and the manner in which they were (or were not) addressed. The HEFSP is deficient in this regard because the Plan should include a review of the status of previous developments and zoning to evaluate whether the mechanisms successfully produced credit-worthy units or if there are issues with mechanisms from previous rounds.

The Township took advantage of the Vacant Land Adjustment ("VLA") compliance mechanism as permitted by N.J.A.C. 5:93-4/5:97-5 and the Fair Housing Act. Municipalities who lack sufficient vacant or developable land can request an adjustment to their obligation based on the outcome of a VLA analysis. The VLA reviews the land within the municipality to determine the town's Realistic Development Potential ("RDP") to provide affordable housing opportunities. The remaining obligation is known as the "unmet need."

The VLA included with the Fourth Round HEFSP establishes an RDP of 57 units, which leaves an unmet need of 98 units.

Proposed Compliance Mechanisms

Realistic Development Potential

The Township proposes to meet its 57-unit RDP with the following compliance mechanisms:

Proposed RDP Compliance Mechanisms				
Mechanism	Total AH Units	Bonus Credits	Applied to 4 th Round RDP	Status
Town Center Mixed-Use Overlay Zone (Block 1807, Lots 2-12 & 14)	11 - 14	-	11	The Township adopted the TCMU Overlay as part of its Third Round Settlement Agreement with Fair Share Housing Center (FSHC). The Overlay was adopted 10/17/2022. A maximum of 70 units is permitted.
Grove Avenue Assisted Living (Block 1201, Lot 12)	25 Total		5	Ordinance adopted 9/8/2024 to conditionally permit an assisted living facility in the C-2 Zone. No further action has taken place.

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320 Bloomfield Avenue / 11 Church Street (Block 704, Lots 18 & 20)	2	1	3	AINOR designated in 2024. Draft redevelopment plan is attached to the HEFSP.
Hillcrest Farms – 383 Bloomfield Avenue (Block 708, Lot 11)	5	4	9	AINOR designated in February 2025. Township is in “good faith negotiations with an interested developer to produce a redevelopment plan.”
420 Bloomfield Avenue (Block 710, Lot 3)	7	3	10	Proposed rezoning / potential future redevelopment designation. There is an “interested developer.”
176 Bloomfield Avenue (Block 202, Lots 1 & 23)	4	2	6	Settlement agreement between Verona and DMH2, LLC. Potential future redevelopment designation / plan.
885 Bloomfield Avenue (Block 2205, Lot 6)	4	3	7	AINOR designated in 2019, plan has not been adopted. Despite property owner and Township preparing a draft plan for 60 units, the HEFSP proposes 19 units.
Hillwood / Verona Senior Housing (Block 2701, Lot 23)	159 (59 applied to Prior / Third Round)	-	8	Constructed in 1979 w/ NJHMFA / Section 8 subsidy. The development includes 159 units, 59 were credited for the Prior / Third Round.
Total		13	59	Several of the projects, including 885 Bloomfield Avenue may not be realistic. It is not standard practice to satisfy RDP using an Overlay Zone, so the 11 projected credits associated with the TCMU Overlay should be reconsidered.

Unmet Need

Taking the mechanisms outlined in the HEFSP at face value, the Township proposes to address its entire Fourth Round RDP and 25 percent of its Unmet Need, leaving an Unmet Need obligation of at least 73 units. The Second and Third Round Substantive Rules (N.J.A.C. 5:93-4.2(h) and 5:97-5.3(b), respectively) do not require a specific strategy to address unmet need but note several viable options, including overlay zoning, market-to-affordable programs, redevelopment, and the adoption of a development fee ordinance.

The amended Fair Housing Act at N.J.S.A. 52:27D-310.1.1 requires municipalities who receive a Vacant Land Adjustment to “identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and to adopt realistic zoning that allows for such adjusted obligation or demonstrate why the municipality is unable to do so.” The

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Township calculated this obligation to be 25 units: $98 \text{ unmet need} \times 0.25 = 24.5$, rounded up. This Report does not object to the calculation provided by the Township, but notes that the remaining Unmet Need still represents an obligation that the Township must address when viable development sites are available.

The table below identifies the proposed mechanisms to address a portion of the Third Round unmet need and the required 225 units of the Fourth Round unmet need.

Fourth Round Mechanisms to Address 25-Units of Unmet Need		
Mechanism	Unmet Need Units at Build-Out	Proposal
TC Zone Amendments	25	Existing zoning is to be amended to eliminate requirement that non-residential and residential uses have equal floor areas. Permitted density is 10 units per acre.

Critique and Analysis

Inclusion of 885 Bloomfield Avenue Proposal

The Fourth Round HEFSP addresses the 885 Bloomfield Avenue Site on pages 35 and 36 as part of the Fair Share Plan prospective need compliance mechanisms. The HEFSP outlines some of the interactions between the Township and Property Owner, beginning with the AINOR designation in 2019. The HEFSP notes that a redevelopment plan has not been adopted, but that a 60-unit inclusionary townhouse development concept plan had been prepared by the Owner.

The narrative in the Plan mischaracterizes the interactions between the Township and Property Owner by stating: "In order to prepare a compliant plan for its Fourth Round obligation, The Township has engaged with property owner in negotiations to arrive at a mutually agreeable concept plan." The HEFSP then goes on to propose a 19 unit development that includes two special needs bedrooms and at least two affordable family rental units. There is no evidence that the development proposed in the HEFSP is realistic.

To further cloud the issue, the HEFSP includes a 38 unit concept plan that the Property Owner previously shared with the Township in Appendix 15 of the Plan to demonstrate a "realistic" project. The narrative on page 35 states: "The concept plan to be included in the Appendices to represent that the project is realistic and has an interested developer is deliberative and subject to negotiation and modification".

There is a disconnect between the proposed mechanism in the Fair Share Plan, which calls for a 19 unit development that is not, and has never been realistic, and the inclusion of a 38 unit concept plan in the appendices to purportedly demonstrate a "realistic" project.

The Property Owner has been in discussions with the Township about an inclusionary project at the Site since 2019. The Township designated the Property an area in need of redevelopment ("AINOR") on February 11, 2019. After that designation, the Township's professionals engaged with the property owner and a development partner, MarkBuilt Homes, to prepare a draft redevelopment plan that would permit a density of 40 dwelling units per acre and yield a maximum of 60 units.

The drafted redevelopment plan failed to materialize, and despite ongoing discussions about including the Property in the Township's Fourth Round HEFSP, which included a modified concept plan including 38 units, the Township planner advised the owner on January 9, 2025 that a density of 10 units per acre would be most

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appropriate for the Site (despite the permission of 12 units per acre for townhouse developments in the A-3 Zone.

Prior to the Township Planning Board's hearing on the HEFSP, the owner submitted a letter to the Planning Board outlining the request to include the Property in the HEFSP and outlining the scope of a financially viable project. In a letter from Steven Mlenak, Esq. dated June 18, 2025, the Township was informed that "[the owner] modeled a 20-unit project to an actual loss of approximately \$2.6 million. Conversely, the 38-unit plan will turn only a nominal return on investment between 7%-8% which is at the very low end of being commercial[ly] financeable but is nonetheless acceptable to the Owner.

The HEFSP was adopted with the 38 unit concept plan and cover letter attached as Appendix 15, but the realistic development potential ("RDP") for the site was identified as 4 units based on a 19 unit development. The 19 unit yield outlined in the plan is described as "pending ongoing negotiations."

The HEFSP further notes that "the Township has engaged the property owner in negotiations to arrive at a mutually agreeable concept plan." The HEFSP does not produce a realistic, financially viable project for the Site. The property owner believed that there was a previous agreement on a 60 unit concept plan. The 60 unit concept represents a realistic development for the property that the owner or a development partner would be willing to undertake to satisfy a portion of the Township's constitutionally mandated affordable housing obligation.

Town Center Mixed-Use (TCMU) Overlay Zone Crediting

The HEFSP indicates that the Township adopted the Town Center Mixed Use Overlay Zone District on October 17, 2022 in accordance with its Third Round Settlement Agreement with FSHC. Overlay zones are typically mechanisms to address Unmet Need, not RDP, as outlined in the Second and Third Round Substantive Rules (N.J.A.C. 5:93-4.2(h) and 5:97-5.3(b).

Since the Township's Fourth Round HEFSP does not include an accounting of credits from the Third Round, it is unclear how or if the TCMU Overlay Zone was applied in the Third Round. The Fourth Round Plan notes that it was implemented as part of the Third Round Settlement Agreement.

The overlay zone does not appear to have generated any units / applications for development including affordable units since its inception. The permitted density of 10 units per acre is less than several of the Township's other multi-family residential zones and no greater than the R-40 single-family zone. The permitted density does not appear to be a substantial incentive to development in a mixed-use context.

If the 11 overlay zone credits are more appropriately applied to the Township's Fourth Round Unmet Need, there will be a gap in the mechanisms to address the RDP, which the Site at 885 Bloomfield Avenue can help address.

Hillwood / Verona Senior Housing Crediting

The Fourth Round HEFSP indicates that the Township was permitted to claim 59 credits toward the Prior Round / Third Round for affordable senior housing units in the Hillwood / Verona Senior Housing development. The development was completed in 1979 and funded by the New Jersey Housing and Mortgage Finance Agency (NJHMFA) as a Section 8 apartment building. While the Township was permitted to claim credits for the Prior / Third Round as part of its Settlement Agreement with FSHC, it is not typical that units constructed prior to 1980 are credit-worthy.

DRAFT - Objection to the Township of Verona's Fourth Round Housing Element and Fair Share Plan
 Prepared on behalf of A&R Skyline Properties, LLC
 August 28, 2025

The Second and Third Round Substantive Rules (N.J.A.C. 5:93-3.1 and 5:97-4.2) provide standards for claiming credit for units created and occupied between April 1, 1980 and December 15, 1986. There is generally not a mechanism to claim credits for units constructed prior to 1980 unless some other action has been taken to extend controls, rehabilitate units, modify marketing plans, etc.

There is no indication in the Township's Fourth Round HEFSP that the Hillwood / Verona Senior units are credit-worthy for the Fourth Round. Absent additional information, it is not appropriate for the Township to claim these credits. If the Hillwood / Verona units are not credit worthy for the Fourth Round, that creates an additional 8 unit gap between the credit-worthy mechanisms and the Township's RDP. The Site at 885 Bloomfield Avenue is available to help address the gap.

Conclusion

The Township of Verona has a constitutional obligation to provide opportunities to construct housing affordable to low- and moderate-income households. The Township's Fourth Round Housing Element and Fair Share Plan includes mechanisms to address its RDP that do not have sufficient supporting documentation or may be more appropriately applied to its Unmet Need. In either scenario, there Township either needs mechanisms to address a gap in its RDP or needs to continue to consider available, realistic development sites that may modify the RDP or help address a portion of the remaining Unmet Need.

The Site at 885 Bloomfield has undergone a level of due diligence that is unusual for a conceptual affordable housing site through the course of extensive discussions with the Township about redevelopment plan standards and various design permutations over the last 6+ years. The Site is available (as the Township has been aware since prior to the adoption of its Third Round Plan), approvable, developable, and suitable. The proposed development of 19 units outlined in the Township's Fourth Round HEFSP is not realistic, and will not be constructed, which the Property Owner has demonstrated through the preparation of a pro forma that shows a significant loss at that density. The Township's HEFSP is internally inconsistent because it attaches a 38 unit concept plan as evidence that the 19 unit development is "realistic."

The Owner of 885 Bloomfield Avenue is ready and able to proceed with a 60 unit development that has been largely engineered and was previously vetted by the Township. The Township has an obligation to include the realistic 60 unit project in its Fourth Round HEFSP to help fill gaps that exist in its RDP mechanisms, and / or to address its ongoing Unmet Need.



New Jersey Judiciary
Civil Practice Division

Civil Case Information Statement (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.

For Use by Clerk's Office Only

Payment type <input type="checkbox"/> check <input type="checkbox"/> charge <input type="checkbox"/> cash	Charge/Check Number	Amount \$	Overpayment \$	Batch Number
Attorney/Pro Se Name Steven Firkser		Telephone Number 732-476-2388		County of Venue Essex
Firm Name (if applicable) Greenbaum Rowe Smith & Davis			Docket Number (when available) ESX-L-594-25	
Office Address - Street 75 Livingston Avenue		City Roseland	State NJ	Zip 07068
Document Type Answer and Challenge to Housing Element & Fair Share Plan			Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) A&R Skyline Properties LLC, Defendant		Caption In re Application of Township of Verona		
Case Type Number (See page 3 for listing) 816				
Are sexual abuse claims alleged?			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does this case involve claims related to COVID-19?			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is this a professional malpractice case?			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.				
Related Cases Pending?			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If "Yes," list docket numbers				
Do you anticipate adding any parties (arising out of same transaction or occurrence)?			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Name of defendant's primary insurance company (if known)			<input type="checkbox"/> None	<input checked="" type="checkbox"/> Unknown

The Information Provided on This Form Cannot be Introduced into Evidence.**Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation**Do parties have a current, past or recurrent relationship? ☐ Yes ☐ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business☐ Other (explain) _____Does the statute governing this case provide for payment of fees by the losing party? ☒ Yes ☐ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.

Objection to Housing Element and Fair Share Plan should be referred to Affordable Housing Dispute Resolution Program

Do you or your client need any disability accommodations? ☐ Yes ☒ No

If yes, please identify the requested accommodation:

Will an interpreter be needed? ☐ Yes ☒ No

If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).Attorney/Self-Represented Litigant Signature: /s/ Steven Firkser

Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES

(Choose one and enter number of case type in appropriate space on page 1.)

Track I - 150 days discovery

- 151 Name Change
- 175 Forfeiture
- 302 Tenancy
- 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 Book Account (debt collection matters only)
- 505 Other Insurance Claim (including declaratory judgment actions)
- 506 PIP Coverage
- 510 UM or UIM Claim (coverage issues only)
- 511 Action on Negotiable Instrument
- 512 Lemon Law
- 801 Summary Action
- 802 Open Public Records Act (summary action)
- 804 Election Law
- 805 Civil Commitment Expungement
- 999 Other (briefly describe nature of action)

Track II - 300 days discovery

- 305 Construction
- 509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))
- 599 Contract/Commercial Transaction
- 603N Auto Negligence – Personal Injury (non-verbal threshold)
- 603Y Auto Negligence – Personal Injury (verbal threshold)
- 605 Personal Injury
- 610 Auto Negligence – Property Damage
- 621 UM or UIM Claim (includes bodily injury)
- 699 Tort – Other

Track III - 450 days discovery

- 005 Civil Rights
- 301 Condemnation
- 602 Assault and Battery
- 604 Medical Malpractice
- 606 Product Liability
- 607 Professional Malpractice
- 608 Toxic Tort
- 609 Defamation
- 616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
- 617 Inverse Condemnation
- 618 Law Against Discrimination (LAD) Cases

Track IV - Active Case Management by Individual Judge / 450 days discovery

156 Environmental/Environmental Coverage Litigation
 303 Mt. Laurel
 508 Complex Commercial
 513 Complex Construction
 514 Insurance Fraud
 620 False Claims Act
 701 Actions in Lieu of Prerogative Writs
 816 Affordable Housing

Multicounty Litigation (Track IV)

282 Fosamax
 291 Pelvic Mesh/Gynecare
 292 Pelvic Mesh/Bard
 293 DePuy ASR Hip Implant Litigation
 296 Stryker Rejuvenate/ABG II Modular Hip Stem Components
 300 Talc-Based Body Powders
 601 Asbestos
 624 Stryker LFIT CoCr V40 Femoral Heads
 626 Abilify
 627 Physiomesh Flexible Composite Mesh
 628 Taxotere/Docetaxel
 629 Zostavax
 630 Proceed Mesh/Patch
 631 Proton-Pump Inhibitors
 633 Prolene Hernia System Mesh
 634 Allergan Biocell Textured Breast Implants
 635 Tassigna
 636 Strattice Hernia Mesh
 637 Singulair
 638 Elmiron
 639 Pinnacle Metal-on-Metal (MoM) Hip Implants
 640 Bard Implanted Port Catheter Products

If you believe this case requires a track other than that provided above, please indicate the reason on page 1, in the space under "Case Characteristics".

Please check off each applicable category

☐ Putative Class Action ☐ Title 59 ☐ Consumer Fraud
☐ Medical Debt Claim