

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.  
Gregory D. Meese, Esq. (NJ Bar No. 037831983)  
Allyson M. Kasetta, Esq. (NJ Bar No. 012892009)  
Mack-Cali Corporate Center  
50 Tice Boulevard  
Woodcliff Lake, NJ 07677  
(201) 391-3737  
Attorneys for Defendants/Intervenors Bobcar Corporation,  
Neil Joy Associates and Forsons Partners, LLC  
gmeese@pricemeese.com  
akasetta@pricemeese.com

IN ALL DECLARATORY JUDGMENT  
ACTIONS FILED BY VARIOUS  
MUNICIPALITIES, COUNTY OF  
ESSEX, PURSUANT TO THE SUPREME  
COURT'S DECISION IN In re Adoption  
of N.J.A.C. 5:96, 221 N.J. 1 (2015)

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY  
DOCKET NO.: ESX-L-004773-15

Civil Action  
(Mount Laurel)

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**REPLY BRIEF ON BEHALF OF DEFENDANTS/INTERVENORS  
IN SUPPORT OF MOTION TO REVOKE THE TEMPORARY IMMUNITY GRANTED  
TO THE TOWNSHIP OF VERONA**

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Of Counsel and on the Brief:

Gregory D. Meese, Esq.

On the Brief:

Allyson M. Kasetta, Esq.

### PRELIMINARY STATEMENT

This is the second motion that Bobcar Corporation, Neil Joy Associates and Forsons Partners, LLC (together, the “Intervenors” or “Bobcar Intervenors”) have filed seeking to revoke the temporary immunity against exclusionary zoning actions previously granted by this Court to the Township of Verona. The first motion was denied by the Court after Verona argued that it was making good progress toward Constitutional compliance. At that time, the Court instructed the Township to present a plan for compliance by September 28, 2018. The Township failed to comply with that Order. Following the Township’s assurances that it was close to having a plan prepared, the Court further extended the Township’s time for compliance until November 16, 2018, at which time the Court intended to conduct a fairness hearing to review the Township’s proposed settlement. The Township did not meet that deadline. The Township admits that it does not have a plan. It is not in compliance, and yet again it seeks more time.

In Mt. Laurel IV, the Supreme Court granted municipalities such as Verona an opportunity to seek judicial confirmation that their affordable housing plans are constitutionally compliant. The Court instructed that participating municipalities choosing to file declaratory judgment actions “should have **no more than five months** in which to submit their supplemental housing element and affordable housing plan.” Mt. Laurel IV, *supra*, 221 N.J. at 27. (Emphasis added). Forty months and counting, and Verona has not submitted a proposed settlement or even a rudimentary housing element or affordable housing plan to allow the Court to consider whether it is in fact nearing compliance.

The Supreme Court directed trial courts to undertake an “individualized assessment” of “the extent of the obligation and the steps, if any, taken toward compliance with that obligation,” including an assessment of such factors as “whether a housing element has been adopted, any

activity that has occurred in the town affecting need, and progress in satisfying past obligations.” Id. at 28. Here, Verona feigns ignorance and claims that it could not take any actions until Judge Jacobson determined a different municipality’s affordable housing need (which occurred more than eight (8) months ago).

Verona’s Brief in opposition to the Motion is completely devoid of substantive legal argument or factual support to substantiate the claim that it is nearing compliance. Instead, Verona claims credit for a plan that at best is conceptual. The Spectrum site, for which it claims 60 affordable housing units (and a rental bonus to which it is not entitled) is for sale – there is no party that has committed to building housing on that site. Verona also states that it may adopt a bond ordinance next month to purchase another property upon which it will allow a 100% affordable housing development. Verona does not own this property, nor is it under contract to acquire it and there is certainly no proposal for development of an affordable housing development on the site. Further, the number of affordable housing units that could feasibly be constructed on the property is unknown.

With respect to the Spectrum site, the Township may not claim the rental bonus that it is asserting. As noted in the certification of Art Bernard, P.P., pursuant to N.J.A.C. 5:93-15, the Township’s rental obligation is based on a formula that might be simplified to be at most 25 percent of the Township’s fair share obligation, less the credits for housing produced between 1980 and 1986. Verona might qualify for 59 credits for the age-restricted housing built occupied in 1981. Applying this to Verona’s 238 prior round and third round housing obligation (calculated using Judge Jacobson’s methodology), Verona’s rental obligation equals  $(.25(238-59))$ , or 45 units. Because the State regulations provide an incentive to build rentals, the municipality can receive a rental bonus, or extra credit, for each non-age restricted rental unit

that satisfies the rental obligation. But, in this case, the Township would be entitled to no more than 45 units of extra credit for building family rentals, not the 60 that it is claiming. Moreover, the rental bonus is granted for affordable units that are constructed and, in accordance with N.J.A.C. 5:93-5.15(d), when “the municipality has provided a firm commitment for the construction of rental units.”

In its rule making, COAH provided some direction as to what is required of a firm commitment:

RESPONSE: The rental bonus is not granted when a municipality zones unless there is a commitment from the developer to build rental housing within a definite period of time within the period of substantive certification. (Emphasis provided) If the developer does not build the units within the stated time frame, the Council will re-examine the bonus.

See Certification of Art Bernard, P.P. dated November 27, 2018 (“Bernard Cert.”) ¶9.

At this point, Verona clearly does not qualify for a rental bonus. There is no commitment from a developer to build rental housing at any time in the future. As a matter of fact, there is no developer for the Spectrum site at all. Moreover, the need for a developer’s agreement to build affordable rental housing is particularly important in that the proposed development of the Spectrum property is extremely dense and requires six (6) story construction which, due to requirements of the building code, dramatically increase the cost of construction. See Bernard Cert. ¶¶10-11.

In summary, giving the Township the benefit of the doubt, it might be able to earn 131 credits: 59 units in the Verona Senior Apartments; three (3) units for a group home; nine (9) units on the Poekel site; and 60 units on the Spectrum site. See Bernard Cert. ¶12. The Township cannot claim credit for the potential site that it may acquire, but is under no actual contract to acquire. At this point, three and a half years after the Supreme Court created the declaratory judgment process, and after receiving numerous extensions from the Court, Verona is

still approximately 107 units shy of addressing the fair share number resulting from Judge Jacobson's Decision.

Despite these obvious deficiencies, Verona again asks the Court to disregard its continued abuse of the declaratory judgment process even though it still has not presented so much as an outline of a plan demonstrating how it will satisfy its obligation. The Township's new representations to the Court should be reviewed in light of (1) the Certification of the Township Manager submitted by Verona over forty months ago in support of the DJ Action in which it was represented to the Court that Verona was in the process of preparing a revised Housing Element and Fair Share Plan ("HEFSP") that will "verify full compliance with its constitutional affordable housing obligations;" and the Township Attorney's representation to the Court at the case management conference held on April 6, 2018, in which the Court was advised that "we're very close to resolution on all of the properties that are involved and hopefully within another couple of sessions we'll be able to get to an agreement." Certification of Allyson M. Kasetta dated November 27, 2018 ("Kasetta 11/27/18 Cert.)," Ex. 1; Ex. 2. The Court should not accept any more empty promises from the Township.

As has been the case since it sought the Court's protection, Verona continues to make promises but has not made any measurable progress toward compliance. Because Verona has not complied with its constitutional obligations, the Court should no longer provide protection against exclusionary zoning actions. As the court stated in Cranford Development, "a developer may be entitled to a builder's remedy, even if a municipality has begun moving toward compliance before or during the developer's lawsuit, provided the lawsuit demonstrates the municipality's current failure to comply with its affordable housing obligations." 445 N.J. Super. 220, at 231, citing Toll Bros. v. Twp. of W. Windsor, 173 N.J. 502, 560 (2002).

## CONCLUSION

Verona was not in compliance when it filed its declaratory judgment action seeking immunity. Forty months on and Verona is still not in compliance. Verona has no commitments for the construction of affordable housing on the two largest sites for which it intends to claim credit. As noted above, “a developer may be entitled to a builder’s remedy, even if a municipality has begun moving toward compliance before or during the developer’s lawsuit, provided the lawsuit demonstrates the municipality’s current failure to comply with its affordable housing obligations.” Cranford Development Associates, LLC v. Township of Cranford, 445 N.J. Super. 220, 231 (App. Div. 2016), citing Toll Bros. v. Twp. of W. Windsor, 173 N.J. 502, 560 (2002). The Bobcar Intervenors have established that Verona is not in compliance and that it has abused the immunity granted to it. For those reasons and those set forth in their initial Brief, Defendants/Intervenors Bobcar Corporation, Neil Joy Associates and Forsons Partners, LLC respectfully request that this Court revoke the Township of Verona’s immunity against exclusionary zoning actions, thereby permitting the Defendants/Intervenors to seek a builder’s remedy and scarce resources order, and further request that the Court award the Defendants/Intervenors attorney’s fees and costs of suit in connection with the Motion.

Respectfully submitted,

PRICE, MEESE, SHULMAN & D’ARMINIO, P.C.  
ATTORNEYS FOR DEFENDANTS/INTERVENORS  
BOBCAR CORPORATION, NEIL JOY ASSOCIATES  
AND FORSONS PARTNERS, LLC

By: \_\_\_\_\_

  
Gregory D. Meese

Date: November 27, 2018



PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.  
Gregory D. Meese, Esq. (NJ Bar No. 037831983)  
Mack-Cali Corporate Center  
50 Tice Boulevard  
Woodcliff Lake, NJ 07677  
(201) 391-3737  
Attorneys for Bobcar Corporation,  
Neil Joy Associates and Forsons Partners, LLC  
[gmeese@pricemeese.com](mailto:gmeese@pricemeese.com)

IN ALL DECLARATORY JUDGMENT  
ACTIONS FILED BY VARIOUS  
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ESSEX, PURSUANT TO THE SUPREME  
COURT'S DECISION IN RE ADOPTION  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY  
DOCKET NO.: L-004773-15

*Civil Action*  
(Consolidated)

**CERTIFICATION OF  
ART BERNARD, P.P.**

I, Art Bernard, of full age, hereby certify as follows:

1. I am a professional planner licensed by the State of New Jersey and the Managing Member of Art Bernard and Associates, L.L.C., a professional planning firm with an office at 77 North Union Street, Lambertville, New Jersey. I have been retained by Defendants/Intervenors Bobcar Corporation, Neil Joy Associates and Forsons Partners, LLC (collectively "Bobcar") as an expert witness in this exclusionary zoning litigation regarding the Township of Verona.

2. I have provided my credentials to the court and will not repeat them here.

3. I have reviewed the Township's response brief to Bobcar's motion to strip Verona of immunity. I have also reviewed the November 26, 2018 certification by the Township's Manager, Matthew Cavallo.

4. Based on the opposition papers file by Verona, it is my understanding that the Township will be seeking a rental bonus for affordable rentals on the Spectrum site (Block 13, Lot

14). It is my further understanding that the Township will seek 120 units of credit for 60 affordable rentals built on the Spectrum property.

5. It is well-established that municipalities cannot mandate the construction of rental housing. They can create incentives for building rentals and enter into agreements with developers to build rentals. Although the Township has adopted Resolution 2018-136, and its latest motion papers expect that affordable rental housing will be built on the Spectrum property, it is clear that there is not an agreement by any party to actual build the project. In fact, the property owner is attempting to sell the property, rather than develop it. Without the rental units, Verona will not have addressed its rental obligation, established at N.J.A.C. 5:93-15.

6. The rule establishes the Township's rental obligation based on a formula that might be simplified to be *at most* 25 percent of the Township's fair share obligation, less the credits for housing produced between 1980 and 1986 ( $.25(\text{fair share} - 1980\text{-}1986 \text{ credits})$ ).<sup>1</sup> In this matter, the Township might qualify for 59 units of credit for the age-restricted housing built occupied in 1981. If one applies the above formula to Verona's 238 prior round and third round housing obligation (calculated using Judge Jacobson's methodology), Verona's rental obligation equals  $(.25(238-59))$ , or 45 units. Because the State regulations provide an incentive to build rentals, the municipality can receive a rental bonus, or extra credit, for each non-age restricted rental unit that satisfies the rental obligation. So, in this case, the Township would be entitled to no more than 45 units of extra credit for building family rentals.

7. It is our understanding that Verona is seeking a 60-unit rental bonus. This is clearly not consistent with the plain language of the rule.<sup>2</sup> The rental bonus is granted for affordable units

<sup>1</sup> The rental obligation might even be less because the rule also requires that the remaining present need be subtracted from the fair share when calculating the rental obligation.

<sup>2</sup> It is my understanding that FSHC has interpreted the rule similarly to the municipality in several cases, including a case where I represented the community. I was not aware of their interpretation at the time. However, I am aware that



that are constructed and, in accordance with N.J.A.C. 5:93-5.15(d), when “the municipality has provided a firm commitment for the construction of rental units.”

8. In its rule making, COAH provided some direction as to what is required of a *firm commitment*:

RESPONSE: The rental bonus is not granted when a municipality zones unless there is a commitment *from the developer to build rental housing within a definite period of time within the period of substantive certification.* (Emphasis provided) If the developer does not build the units within the stated time frame, the Council will re-examine the bonus.

9. At this point, Verona clearly does not qualify for a rental bonus. There is no commitment from a developer to build rental housing at any time in the future. As a matter of fact, there is no developer at all. *So, there is no one in place that could even provide a commitment.*

10. In my opinion, the need for a developer’s agreement to build affordable rental housing is particularly important in that the proposed development of the Spectrum property is so dense as to require six (6) story construction. It has been my experience that my developer clients have resisted building anything in excess of four (4) or five (5) stories because of changes in the building code that dramatically increase the cost of construction. At the very least, the proposed six-story construction will probably require structured parking, which is much more expensive to build than surface parking

11. In summary, it is my expert opinion that Verona is still not eligible for a rental bonus at all; and even if it were, the maximum rental bonus would be 45, not 60. If I gave the Township the benefit of the doubt based on what I have seen, I would say that the Township might

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FSHC has shown a willingness to promote various interpretations of the State regulations or support waivers in certain municipalities based on the facts before it. I do not know how FSHC will interpret this rule as applied to Verona. But I do know what the rule says; and I would argue that supporting a waiver from this rule does not promote low and moderate income housing because such waiver makes it easier to thwart our client, who is ready, willing and able to build affordable housing.

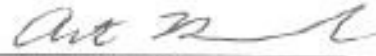
be able to earn a total of 131 credits based on: 59 units in the Verona Senior Apartments; three (3) units for a group home; nine (9) units on the Poekel site; and 60 units on the Spectrum site.

12. The Township also claims that it may acquire another property upon which a 100% affordable project may be built. Even if it does purchase the site, it must estimate the costs, revenues and subsidies associated with building this 100 percent affordable community. It must establish a timetable for every phase of the construction process and it must begin construction within two (2) years of any court approval of its plan. It must bond, if necessary, should outside funding not be available within two years. N.J.A.C. 5:93-5.5.

13. At this point, three and a half years after the Supreme Court created the declaratory judgment process, Verona is still approximately 107 units shy of addressing the fair share number resulting from Judge Jacobson's Decision.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 27, 2018

  
\_\_\_\_\_  
Art Bernard, PP

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.  
Gregory D. Meese, Esq. (NJ Bar No. 037831983)  
Allyson M. Kasetta, Esq. (NJ Bar No. 012892009)  
Mack-Cali Corporate Center  
50 Tice Boulevard  
Woodcliff Lake, NJ 07677  
(201) 391-3737  
Attorneys for Defendants/Intervenors Bobcar Corporation,  
Neil Joy Associates and Forsons Partners, LLC  
[gmeese@pricemeese.com](mailto:gmeese@pricemeese.com)  
[akasetta@pricemeese.com](mailto:akasetta@pricemeese.com)

IN ALL DECLARATORY JUDGMENT  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY  
DOCKET NO.: ESX-L-4773-15

Civil Action  
(Mount Laurel)

**CERTIFICATION OF  
ALLYSON M. KASETTA, ESQ.**

Allyson M. Kasetta, Esq., of full age, certifies as follows:

1. I am an Attorney At Law of the State of New Jersey employed by the firm of Price, Meese, Shulman & D'Arminio, P.C., counsel for proposed Intervenors/Defendants Bobcar Corporation, Neil Joy Associates and Forsons Partners, LLC, (hereinafter collectively referred to as the "Bobcar Intervenors").
2. I make this Certification in further support of the Bobcar Intervenors' Motion to Revoke the Temporary Immunity Granted to the Plaintiff Township of Verona ("Verona").
3. Attached as Exhibit 1 is a true copy of the Certification of Township Manager in Support of Petitioner's Verified Complaint for Declaratory Judgment filed by the Township of Verona on July 2, 2015 in connection with the commencement of its Declaratory Judgment Action.

4. Attached as Exhibit 2 is a true copy of an excerpt of the transcript of the case management conference held on April 6, 2018 in connection with the DJ Action.

I hereby certify that the foregoing statements made by me are true, and that I am aware that if any of those statements are willfully false, I am subject to punishment.

Dated: November 27, 2018

  
Allyson M. Kasetta



# **EXHIBIT 1**

GIBLIN & GANNAIO ESQS.  
Two Forest Avenue  
Oradell, New Jersey 07649  
(201) 262-9500  
Attorneys for Plaintiff/Petitioner  
Attorney I.D. 027001990

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

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - ESSEX COUNTY

CIVIL ACTION  
(Mount Laurel)

CERTIFICATION IN SUPPORT OF  
PETITIONER'S VERIFIED  
COMPLAINT FOR DECLARATORY  
JUDGMENT

I, JOSEPH MARTIN am the Manager for the Township of Verona, a municipal corporation and body politic organized under the laws of the State of New Jersey, with offices located at 600 Bloomfield Avenue in the Township of Verona, County of Essex and State of New Jersey 07044, and make this certification in support of Plaintiff/Petitioner's Complaint for Declaratory Judgment.

1. In 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs.

2. In 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.

3. In 1985, the New Jersey Legislature adopted, and the Governor signed, the Fair Housing Act ("FHA") N.J.S.A. 52:2D-301 et seq. which transformed the judicial doctrine which became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it.

4. COAH proceeded to adopt regulations for first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999.

5. In 1992 the Township of Verona prepared and adopted, in accordance with the requirements of the Fair Housing Act as well as the standards and regulations of the Council on Affordable Housing (COAH), its Affordable Housing and Fair Share Plan. The intent of this plan was to identify any obligations for the provision of low and moderate income housing and, where such obligations exist, to outline a program for addressing the need. Foresight on the part of the township has allowed for the construction of a 159 unit Section 8 project completed in 1981 and financed through the New Jersey Housing and Mortgage Finance Agency. Verona submitted this housing

plan and received full credit for that project, the full fair share obligation of Verona is satisfied, including its indigenous need.

8. The February 1995 Housing Element and Fair Share Plan incorporated updated demographic information and reflected changes in COAH's fair share allocation for Verona. The Township's fair share had, in 1987, been determined to be 127 units. However, when new cumulative fair share numbers (1987-1999) were issued by COAH in 1993, Verona's fair share allocation was reduced to 27 units. The 1995 Housing Element and Fair Share Plan continued to claim credits for 159 prior cycle low income senior citizens housing in fulfillment of its fair share obligation.

9. This plan was submitted to COAH on April 4, 1995. On August 2, 1995 COAH granted Verona's petition for Substantive Certification awarding credits of the 159 unit senior citizens low income section 8 rental housing development. This project was deemed to have satisfactorily addressed the entire 1987 to 1999 fair share obligation. (Cumulative Rounds One and Two)"

10. COAH first proposed third round substantive and procedural rules in October, 2003. 35 N.J.R. 4636(a); 35 N.J.R. 4700(a).

11. Those rules remained un-adopted and COAH re-proposed both the substantive and procedural third round rules (N.J.A.C. 5:94 and 5:95) in August of 2004 and adopted the same effective on December 20, 2004. (the "2004 Regulations")

12. In 2005, the Township of Verona Adopted a Fair Share Plan and Housing Element to address its third round obligation."

13. The 2004 Regulations were challenged and on January 25, 2007, the Appellate Division invalidated various aspects of those regulations and remanded

considerable portions of the rules to COAH with direction to adopt revised rules. In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council on Affordable Housing, 390 N.J. Super. 1 (App. Div.), certif. denied, 192 N.J. 72 (2007) (the "2007 Case").

14. On January 22, 2008, COAH proposed and published revised third round regulations in the New Jersey Register. 40 N.J.R. 237.

15. On May 6, 2008, COAH adopted the revised third round regulations and advised that the new regulations would be published in the June 2, 2008 New Jersey Register, thereby becoming effective.

16. On May 6, 2008, COAH simultaneously proposed amendments to the revised third round rules it had just adopted. Those amendments were published in the June 16, 2008 New Jersey Register, 40 N.J.R. 3373 (Procedural N.J.A.C. 5:96); 40 N.J.R. 3374 (Substantive N.J.A.C. 5:97). The amendments were adopted on September 22, 2008 and made effective on October 20, 2008.

17. On Thursday, December 18, 2008 the Township of Verona Planning Board held a public hearing pursuant to N.J.S.A. 40:55D-10 of the Municipal Land Use Law to hear public comment and to consider the amendment to the Housing Element and Fair Share Plan of the Township's Master Plan. After public comment, the Planning Board adopted amendments to the Housing Element and Fair Share Plan. This housing element, COAH completed application, resolution adopting the housing element, the most recent zoning ordinance, and developers fee ordinance were all send to COAH on December 24, 2008 in compliance with COAHs regulations."

18. In June of 2012 Verona submitted to COAH modifications to its spending



plan." and Verona continues to monitor its affordable housing trust funds in accordance with COAH regulations.

19. The Supreme Court established a transitional process for municipalities, like the Township of Verona, that participated in the administrative process before COAH to file a declaratory judgment action with the trial courts seeking to declare their HEFSPs as being constitutionally compliant and seeking similar protections to those that the participating municipalities would have received if they had continued to proceed before COAH.

20. In explaining the transitional process contemplated, the Supreme Court equated these "Participating "Municipalities" to those municipalities in 1985 that had sought to transfer jurisdiction from the Court to the newly created COAH and switch the forum from a judicial one to an administrative one under N.J.S.A. 52:27D-316.

21. While the Supreme Court in the 2015 Case declined to adopt a specific methodology or formula to calculate the third round affordable housing obligations of the municipalities and instead left that determination to the 15 Mount Laurel Judges (one in each vicinage), it did provide some guidance by reiterating its endorsement of the previous methodologies employed in the First and Second Round Rules as the template to establish third round affordable housing obligations, and as abovementioned, by treating Participating Municipalities filing Declaratory Judgment actions in the same way that the 1985 FHA when originally enacted on July 2, 1985 treated municipalities transitioning from the judicial to the administrative process.

22. In light of the decisions in the 2013 Case and the 2015 Case, the Township of Verona and its Planner are currently in the process of preparing a revised HEFSP that

will verify full compliance of the Township of Verona with its constitutional affordable housing obligations.

23. For all of the forgoing reasons it is respectfully submitted that the Township of Verona has fully discharged its constitutional affordable housing obligations and seeks protection and repose against exclusionary zoning litigation for a period of ten (10) years from its date of entry.

24. It is respectfully requested that the Township of Verona be granted a five month period from the date that a methodology or formula is established by the Court, or otherwise, to prepare a constitutionally compliant HEFSP that incorporates the formula and methodology approved.

25. It is respectfully requested that an Order granting temporary immunity for third party lawsuits against the Township of Verona from the date of the filing of the instant Declaratory Judgment action until the Court issues a Final Judgment of Compliance and Repose to the Township of Verona for its HEFSP formulated, adopted and approved in accordance with the applicable formula and methodology established by this Court be issued by the Court.


26. It is also respectfully requested that an Order approving the Spending Plan of the Township of Verona, which is pending before COAH, be issued.

27. Further, it is respectfully requested that this Court assume and assert :

- a) Jurisdiction over the approval of any amendments to the Spending Plan previously approved by COAH;
- b) Issue an Order continuing the jurisdiction of this Court to consider and approve any amendments to the Approved Spending Plan;

- c) An Order exercising jurisdiction over the compliance by the Township of Verona with its constitutional affordable housing obligations; and
- d) An Order declaring that the Township of Verona has fully discharged its constitutional affordable housing obligations and is granted protection and repose against exclusionary zoning litigation.
- e) A Judgment of Compliance and Repose for a period of ten (10) years from its date of entry.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for contempt of court.

  
\_\_\_\_\_  
JOSEPH A. MARTIN, MANAGER  
TOWNSHIP OF VERONA

Dated:

# **EXHIBIT 2**

1 SUPERIOR COURT OF NEW JERSEY  
2 LAW DIVISION-CIVIL PART  
3 ESSEX COUNTY  
4 DOCKET NO.: L-4173-15  
5 A.D. #  
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IN ALL DECLARATORY  
JUDGEMENT ACTIONS FILED  
BY VARIOUS  
MUNICIPALITIES, COUNTY  
OF ESSEX, PURSUANT TO  
THE SUPREME COURT'S  
DECISION.

TRANSCRIPT

OF

CASE MGMT. CONFERENCE

Place: Historic Courthouse  
470 M.L.K, Jr. Blvd.  
Newark, NJ 07102

Date: April 6, 2018

BEFORE:

HONORABLE ROBERT H. GARDNER, J.S.C.

TRANSCRIPT ORDERED BY:

JENNIFER ZELLER, (Price, Meese, Shulman &  
D'Arminio)

APPEARANCES:

BRIAN GIBLIN, ESQ.  
Attorney for Township of Verona

ALLYSON KASSETTA, ESQ., (Price, Meese, Shulman &  
D'Arminio)  
Attorney for Bobcar Corporation, Neil Joy  
Associates and Forsons Partners, LLC

Kerry Lang  
KING TRANSCRIPTION SERVICES  
3 South Corporate Drive, Suite 203  
Riverdale, NJ 07457

Audio Recorded  
Recording Opr: Dorian Webb



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APPEARANCES CONTINUED:

JOHN INGLESINO, ESQ., (Inglesino and Webster)  
Attorney for Spectrum 360

PETER FLANNERY, ESQ., (Bisgaier Hoff)  
Attorney for Prokell Properties

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I N D E X

Proceeding

Page

In re: Colloquy

4

1 THE COURT: Verona?

2 MR. GIBLIN: Good afternoon, Your Honor.

3 Brian Giblin (phonetic) appearing on behalf of the  
4 Township of Verona.

5 MS. KASSETTA: Good afternoon, Your Honor.

6 Allyson Kasetta from Price, Meese, Shulman & D'Arminio  
7 appearing on behalf of interveners, Bobcar Corporation  
8 (phonetic), Neil Joy Associates (phonetic) and Forsons  
9 Partners, LLC (phonetic).

10 MR. INGLESINO: Good afternoon, Your Honor.

11 John Inglesino from Inglesino Webster on behalf of the  
12 Spectrum 360 intervener.

13 THE COURT: Okay. Where are we?

14 MR. FLANNERY: Afternoon, Your Honor. I'm  
15 sorry. Peter Flannery, Bisgaier Hoff on behalf of the  
16 Defendant Intervener, Prokell Properties (phonetic).

17 THE COURT: All right. Where are we?

18 MR. GIBLIN: Your Honor, we've been talking to  
19 all of the interveners in this case separately. I  
20 think we're very close to resolution on all of the  
21 properties that are involved and hopefully within  
22 another couple of sessions we'll be able to get to an  
23 agreement.

24 THE COURT: All right. Fair enough.

25 Everybody okay with that?

1 MR. INGLESINO: Yes, Your Honor.

2 MS. KASSETTA: Yes, Your Honor.

3 MR. FLANNERY: Yes, Your Honor.

4 THE COURT: All right. Keep -- keep up the  
5 good work. Let me know when you resolve it.

6 MR. GIBLIN: Thank you, Judge.

7 THE COURT: No problem.

8 (Hearing Concluded)

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