

Township of West Milford

Passaic County, New Jersey

~ Resolution 2015 – 175 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE TOWNSHIP ATTORNEY TO FILE A DECLARATORY JUDGMENT ACTION WITH THE SUPERIOR COURT SEEKING JUDICIAL APPROVAL OF THE TOWNSHIP'S COMPLIANCE WITH ITS THIRD ROUND AFFORDABLE HOUSING OBLIGATION IN ACCORDANCE WITH THE NEW JERSEY SUPREME COURT DECISION IN THE MATTER OF THE ADOPTION OF N.J.A.C. 5:96 AND 5:97 BY NJ COUNCIL ON AFFORDABLE HOUSING

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in the case of In Re Adoption of N.J.A.C. 5:96 and 5:97 by NJ Council on Affordable Housing, holding that enforcement of the Fair Housing Act ("FHA") and the Mount Laurel Doctrine be returned from the NJ Council on Affordable Housing ("COAH") to the New Jersey Superior Courts, due to COAH's failure to adopt Third Round Rules on municipal affordable housing obligations; and

WHEREAS, the NJ Supreme Court ordered in that decision that municipalities which had either received Third Round Substantive Certification or been declared to have "Participating" status by COAH are permitted to file a declaratory judgment action with its County's Superior Court; and

WHEREAS, the purpose of the declaratory judgment action is to seek a judicial declaration that the municipality's affordable housing plan presents a realistic opportunity for the provision of its fair share of present and prospective need for low and moderate income housing, such that the Township may receive from the courts substantive certification and accompanying protection as afforded under the FHA; and

WHEREAS, the Supreme Court ruled that a municipalities' Third Round fair share obligation and housing plan must be evaluated under the prior round methodology; and

WHEREAS, the Township of West Milford was declared to have "participating status"; and

WHEREAS, the Mayor and Township Committee deem it to be in the best interest of the Township and its residents to authorize the Township Attorney to file a declaratory judgment action seeking judicial approval of the Township's compliance with its Third Round affordable housing obligation.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Township Attorney is hereby authorized to file a declaratory judgment action with the Passaic County Superior Court to seek judicial approval of the Township's compliance with its Third Round affordable housing obligation and any other actions deemed necessary in accordance therewith.

BE IT FURTHER RESOLVED that the Mayor and Township Administration are hereby authorized to execute any and all documents necessary to implement and effectuate this Resolution.

This Resolution will take effect immediately upon its passage.

Adopted: May 20, 2015

Adopted this 20th day of May, 2015
and certified as a true copy of an original.

Antoinette Battaglia, Township Clerk