

**BOROUGH OF DUNELLEN
PUBLIC NOTICE OF PROPOSED SETTLEMENT
AND REQUEST FOR
JUDGMENT OF COMPLIANCE AND REPOSE**

PLEASE TAKE NOTICE that a hearing will be held on March 16, 2016 before the Honorable Douglas K. Wolfson, Superior Court of New Jersey, at 9:30 a.m. in Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey to consider the entry of a Final Judgment of Compliance and Repose in favor of the Borough of Dunellen, based upon a proposed Settlement Agreement, Housing Element & Fair Share Plan and Compliance Report which have been submitted to the Court in the matter of the adoption of the Housing Elements for the Borough of Dunellen and the Fair Share Plan and Implementing Ordinances, Docket No. MID-L-3947-15.

Entry of a Final Judgment of Compliance and Repose would declare the Borough of Dunellen in compliance with its obligation to have provided and to provide realistic opportunities for the construction of housing affordable to low and moderate income households as defined in the "Mount Laurel Cases," and in the New Jersey Fair Housing Act of 1984, as amended. Entry of a Judgment of Compliance and Repose will bar for ten years any claim that the Borough of Dunellen is failing to provide a sufficient realistic housing opportunity for the construction of housing for low and moderate income households.

In the lawsuits resulting in the settlement, the adoption of the Housing Element & Fair Share Plan, and the preparation of the Compliance Report, Plaintiffs claim, among other things, that the Borough of Dunellen's existing zoning and land use planning practices failed to provide adequate realistic opportunities for the construction of housing affordable to low and moderate income households to meet the needs of persons residing in the Borough of Dunellen and to meet the constitutional obligation for its present and prospective affordable housing needs. The Borough of Dunellen has denied these claims and the parties have agreed to settle the case upon the terms that are set forth in a certain Settlement Agreement approved by all parties to the litigation.

The Settlement Agreement will result in an amendment to the Dunellen Downtown Redevelopment Plan, Phase I, which governs approximately 70 acres of land located in the center of the Borough and designated on Dunellen's Official Tax Map as Block 69, Lots 1, 1.01, 2.01, and 3; Block 70, Lots 13 and 13.01; Block 85, Lot 1; Block 1, Lots 14, 15.01, 15.02, and 16-23; Block 2, Lots 10, 11.01, and 11-20; Block 32, Lots 1-13, 14, 14.01, 15-24, 24.01, and 25-28; Block 33, Lots 14, 14.01 and 16-23; Block 34, Lots 10.01, 22-24, 24.01, 25-26, 27.01, 27.02, 28-38, and 38.01; Block 48, Lots 16-28; Block 49, Lots 25-26, 27.01, 28-38, 39.01, 39.02, 40, 41, 43, and 44; Block 50, Lots 1-6; Block 51, Lots 1-3; Block 65, Lot 1; Block 66, Lots 1-5, 6.01, 7-9, 10.01, 10.02, 11-14, 15.01, 15.02, 16, 17, 17.01, 18, 19, and 20; and Block 86, Lots 1-4, 4.02, 4.03, and 5

As amended, the redevelopment plan will provide for a fifteen percent (15%) set-aside for a 372-unit inclusionary development located on the former Art Color Factory site, designated Block 85, Lot 1 on the Borough's Official Tax Map. The redevelopment plan amendment also includes language that requires a twenty percent (20%) set-aside for all future redevelopment projects comprised of five (5) or more dwelling units within the area governed by the Dunellen Downtown Redevelopment Plan.

In addition, the Settlement Agreement provides as follows:

1. The Borough shall adopt the aforementioned redevelopment plan amendment to the Dunellen Downtown Redevelopment Plan implementing the Settlement Agreement.
2. The Borough's Housing Plan Element & Fair Share Plan shall be approved by the Court as an acceptable Plan for compliance with the Borough's prospective affordable housing obligation for a period of not less than ten years from the date of entry of the Judgment of Compliance and Repose.
3. The Borough shall be granted a period of repose from exclusionary zoning litigation for a period of not less than ten years from the date of the entry of the Judgment of Compliance and Repose.
4. The Borough shall be authorized to impose and collect residential and non-residential development fees and to maintain those fees in the Borough's Affordable Housing Trust Fund during the period of repose in accordance with the Judgment, subject to applicable law.
5. The Borough's Housing Plan Element and Fair Share Plan shall be subject to amendment or revision at the option of the Borough, based upon new legislation, regulation or judicial decisions, but such amendment or revision shall not alter the rights or obligations of the Plaintiffs under the Settlement Agreement or the duties of the Defendants concerning the development of the Art Color Factory site and shall be subject to approval by the Court after a public hearing.

6. The Borough shall not repeal, modify, or amend the Dunellen Downtown Redevelopment Plan, except as required by the settlement agreement, or any other municipal ordinance in effect as of the effective date of the Settlement Agreement that affects the use or development of the properties which are the subject of the litigation, for a period of ten years from the operative date of the Settlement Agreement as so defined in the Settlement Agreement, except with the written approval of the Plaintiffs.
7. The claims, counterclaims, third party claims, cross-claims, and defenses between or among Plaintiffs, Defendants and Cross-Claimants in the litigation are dismissed with prejudice.
8. The Court retains jurisdiction for the limited purpose of enforcing the Judgment, including the Settlement Agreement.

The Housing Plan Element and Fair Share Plan provides that Dunellen has created sufficient safe, decent housing affordable to low and moderate income households to satisfy the prior round and prospective need components of its fair share housing obligation and that Dunellen will facilitate the rehabilitation of twelve (12) units of physically substandard housing occupied by low and moderate income households through the Middlesex County Housing First Program to satisfy the rehabilitation component of its fair share housing obligation.

The full text of the proposed Settlement Agreement, the Housing Element & Fair Share Plan, and the Compliance Report may be examined and copied during regular business hours at the Office of the Borough Clerk of the Borough of Dunellen, located at the Municipal Building, 355 North Avenue, Dunellen, NJ 08812.

Any interested party, including any low or moderate income person residing in central New Jersey, any organization representing the interests of low and moderate income persons, any owner of property in the Borough of Dunellen, or any organization representing the interests of owners of property in the Borough of Dunellen, may file objections to the proposed Settlement Agreement, Housing Element & Fair Share Plan or Compliance Report and may present evidence in support of such objections. Objections must be filed in writing, together with copies of any supporting affidavits or documents, on or before March 1, 2016 with the Honorable Douglas K. Wolfson, Superior Court of New Jersey, at 9:30 a.m. in Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey

Any person wishing to be heard, whether or not an objection has been filed, shall advise the Court and all counsel of record in writing on or before March 8, 2016. Failure to provide such written notice will preclude presentation of any evidence, oral presentation or argument.

This Notice is given by Order of the Superior Court. It is intended to inform all interested parties of the existence of the proposed settlement and the possible consequences of Court approval of the Settlement Agreement, Housing Element & Fair Share Plan and Compliance Report and the entry of a Judgment of Compliance and Repose. It does not indicate any view by the Court as to the merits of the lawsuits, the fairness, reasonableness or adequacy of the proposed settlement, or whether the Court will approve the settlement or enter a Judgment of Compliance and Repose as set forth herein.

William M. Robins, RMC
Dunellen Municipal Clerk