

Township of White Affordable Housing Midpoint Realistic Opportunity Review

July 23, 2020

Background

On March 10, 2015, the Supreme Court ruled that the Council on Affordable Housing (“COAH”) failed to act and, as a result, the Courts would be assuming jurisdiction over the Fair Housing Act. On or about July 7, 2015 the Township of White filed a Declaratory Judgment with the Court. On November 29, 2016, the Township entered into a Settlement Agreement with the Fair Share Housing Center (“FSHC”) to memorialize the terms of settlement of the Township’s affordable housing obligations.

The Settlement Agreement outlines White Township’s affordable housing obligations as follows:

- Rehabilitation Share: 23 units
- Prior Round Obligation: 16 units
- Third Round Prospective Need: 0 units

The Township adopted a Housing Element & Fair Share Plan on July 11, 2017 to address the affordable housing obligations.

Paragraph 13 of the Settlement Agreement requires that the Township comply with the statutory midpoint review requirements of the Fair Housing Act and specifically N.J.S.A. 52:27D-313, which states “...the Council [on Affordable Housing] shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public...” This Midpoint Review Report has been modeled after the template prepared by FSHC and modified to more closely reflect the conditions in the municipality, the Settlement Agreement with FSHC, and the Housing Element and Fair Share Plan.

The Settlement Agreement requires that the midpoint review be posted on the Township website, a copy provided to DCA, COAH or LGS, and a copy provided to FSHC. This review acts as a status report regarding the Township’s compliance mechanisms and whether or not any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity.

At a Fairness Hearing on March 9, 2017, the Superior Court found the Settlement Agreement to be fair and deemed it to be preliminarily in compliance with the Township’s affordable housing fair share obligation. Thereafter, White Township prepared and adopted the requisite compliance documents.

Conditions of Compliance

The Township has not yet had a Final Compliance Hearing and, therefore, no Final Order of Judgment of Compliance and Repose (“JOR”) has been issued.

Present Need (Rehabilitation Share) Review

As indicated above, White Township has a 23-unit Rehabilitation Obligation. White Township intends to continue to encourage residents to utilize the existing Warren County Housing Program to rehabilitate homes. In the case of a shortfall, White Township will apply for a Small Cities/CBDG grant available through the Department of Community Affairs.

Prior Round Mechanism Review

In accordance with N.J.A.C. 5:93-3.2, municipalities may receive credit for units constructed between April 1, 1980 and December 15, 1986, provided the units are occupied by low or moderate-income households and that the required controls on affordability are in place. White Township’s Certified Third Round Plan includes 158 prior cycle credits in the Windtryst Apartments development, which was constructed in 1985. The Windtryst Apartment development is located along the east side of County Route 519 on Block 18, Lot 5. The 158 units are non-age-restricted rental units with 50-year deed restrictions, which expire in 2035. The project was developed under the Farmers Home Administration (FmHA) Rural Rental Housing Program and constructed between 1982 and 1985. White Township has assigned 16 units of credit from this development to address its entire prior round obligation and rental obligation.

Windtryst Apartments are administered by Windtryst Limited, which has assumed the responsibility of Management Agent for the past 30 years and is a HUD approved management organization. Windtryst Limited is responsible to conduct the required affirmative marketing, place income eligible households in the units, enforce the terms of the deed restriction and re-rent the units upon vacancy.

Third Round Realistic Opportunity Review

In accordance with the Settlement Agreement with the Fair Share Housing Center, White Township has a Third Round Obligation of 0 units.

Very-Low Income Analysis

Paragraph 8 of the Settlement Agreement indicates that 13% of all units referenced in the Agreement constructed after July 1, 2008 shall be very-low income units. Half of those units must be available for families. Since White Township is relying on the Windtryst Apartments for the new construction obligation, no units have been or are anticipated to be constructed after July 1, 2008.

Conclusion

White Township is currently in the compliance phase of the Declaratory Judgment process. The Court will determine at the Compliance Hearing whether the Township’s Housing Element and Fair Share Plan creates a realistic opportunity for the construction of affordable housing. This hearing will be noticed in advance and all documents will be placed on file with the Municipal Clerk for public inspection.