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CRANFORD DEVELOPMENT
ASSOCIATES, LLC, a limited liability
company organized under the laws of the State
of New Jersey, SAMUEL HEKEMIAN,
PETER HEKEMIAN, JEFFREY HEKEMIAN
and ANN KRIKORIAN as trustee for
RICHARD HEKEMIAN and MARK
HEKEMIAN,
Plaintiffs,

vs.

TOWNSHIP OF CRANFORD, MAYOR AND
COUNCIL OF THE TOWNSHIP OF
CRANFORD and the PLANNING BOARD
OF THE TOWNSHIP OF CRANFORD,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY

DOCKET NO.: UNN-L-3759-08

CIVIL ACTION – *MOUNT LAUREL*

**BRIEF IN SUPPORT OF TOWNSHIP'S MOTION FOR LEAVE TO AMEND ITS
ROUND 3 FINAL JUDGMENT OF COMPLIANCE AND REPOSE**

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On the brief

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INTRODUCTION

Beginning in 2010, the Township of Cranford began a long, expensive, and ultimately unsuccessful battle with a developer seeking a Mount Laurel “builder’s remedy.” The Township suffered exposure to such suits because, prior to 2010, the Township had never satisfied its “fair share” of housing that is affordable to the region’s low and moderate income households. That builder’s remedy lawsuit was a hard -- and very expensive -- lesson for Cranford, which is why its current governing body seeks to avoid such disruptive and resource-depleting litigation now and in the future.

In 2013, Honorable Lisa F. Chrystal, J.S.C. granted CDA the right to construct a 360-unit development, fifty four (54) of which would be reserved for qualified low and moderate income households. At the same time, Judge Chrystal also approved the Township’s Round 3 Housing Element and Fair Share Plan (“Affordable Housing Plan”) which, among other things, provides Cranford with legal immunity from all Mount Laurel lawsuits until December 31, 2018. Thus, CDA secured the reward of a builder’s remedy, and Cranford secured a reward of immunity for obtaining approval of its Affordable Housing Plan. This fundamental process has been taking place in the Mount Laurel arena for well over three decades.

The primary goal in the Mount Laurel arena is for towns to comply voluntarily, i.e., without the need for any exclusionary zoning lawsuits. After achieving compliance in 2013, Cranford recently identified some changed circumstances. Cranford wishes to take a proactive and diligent approach to addressing the changed circumstances and eliminating any possible question about the Township’s commitment to compliance. This motion is a key element in this process, and essentially mirrors the procedures for such circumstances created by the New Jersey Council on Affordable Housing (“COAH”).

The Township seeks two forms of relief. First, it seeks permission to amend its existing Round 3 Judgment of Compliance and Repose (“JOR”). Second, to facilitate the amendment process, the Township seeks a determination of its Realistic Development Potential (“RDP”) and its ability to satisfy its RDP. For the reasons set forth below, the Township respectfully asks this Court to grant both forms of relief, because doing so will facilitate the Township’s ability to remain compliant voluntarily without the need for any exclusionary zoning lawsuits.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The Township’s 2013 Round 3 JOR reasonably assumed that COAH would adopt valid Round 3 regulations and that, once COAH promulgated those regulations, Cranford would have one year to file an amended Round 3 Fair Share Plan. See Certification of Michael A. Jedziniak, Esq., dated July 14, 2017, at Exhibit A. Unfortunately, however, four years have passed and the Township’s Round 3 fair share obligation remains uncertain.

Nevertheless, the Township intends to proactively address the changed circumstances and to satisfy its Mount Laurel obligations free from the costs and burdens of unnecessary exclusionary zoning litigation. In addition, despite the uncertainty of the fair share and the related laws, the Township seeks to chart a course to address its Round 3 responsibilities as well as to extend immunity beyond December 31, 2018 to July 15, 2025. Having endured years of costly litigation with Cranford Development Associates, LLC (“CDA”), the Cranford is devoted to focusing its finite resources solely on remaining compliant. The following facts demonstrate the Township’s commitment to compliance.

Facts Leading To The Township’s Existing Round 3 Judgment of Compliance and Repose

On May 22, 2013, Honorable Lisa F. Chrystal, J.S.C. entered a Round 3 JOR in favor of Cranford Township. See Jedziniak Cert. at Exhibit A. This JOR also memorialized CDA’s right

to construct a 360-unit inclusionary rental development that would include 54 deed restricted Mount Laurel units on a parcel commonly referred to as the Birchwood site. Ibid. The JOR¹ includes the following relevant provisions:

1. The Township's Prior Round obligation is 138 units. Jedziniak Cert. at Exhibit A, para. 1;
2. The Township's Round 3 RDP is five (5) units. Ibid.;
3. Recognition that the Township's final Round 3 fair share obligation would be determined at a later date. Id. at para. 3;
4. The Township secured repose from all Mount Laurel litigation until December 31, 2018. Id. at para. 9.
5. Once its Round 3 quota is established by COAH "or a lawfully designated successor entity," the Township "***shall amend*** [its] Housing Element and Fair Share Plan to address any obligation "in excess of the five-unit RDP provided for in its [current] Housing Element and Fair Share Plan." Id. at para. 10; see also Id. at Exhibit B, p. 25, para. 8 (wherein Special Master McKenzie stated that, once the Township's Round 3 obligation is determined, its revised Round 3 Plan "may be reviewed and approved [by the court] ***as an amendment or supplement to the Court-approved Housing Element and Fair Share Plan*** on which the Township's Final Judgment of Compliance is based.")(emphasis added).
6. Such action shall take place ***within one year*** of the determination of the Township's Round 3 fair share. Ibid.
7. Finally, the Court retained jurisdiction over Cranford's Mount Laurel compliance efforts. Id. at para. 11.

On August 2, 2013, the Township appealed Judge Chrystal's decision to award a builder's remedy to CDA. Jedziniak Cert. at para. 4.

On April 26, 2016, the Appellate Division affirmed the CDA builder's remedy. Id. at para. 5.

¹ The Judgment of Compliance and Repose referenced and attached a section of the Final Compliance Report issued by Special Master Elizabeth C. McKenzie, P.P., A.I.C.P. on March 29, 2013. See Jedziniak Cert. at Exhibit B.

On August 12, 2016, the Supreme Court denied the Township petition for certification. Id. at para. 6. Thus, the validity of CDA's builder's remedy and the Township's potential right to reformulate its Fair Share Plan was uncertain until less than one year ago. Id. at para. 7.

The "Changed Circumstances" Giving Rise To This Motion

There are four "changed circumstances" matters that Cranford has addressed. These include:

1. The anticipated 20-unit decrease in the affordable housing yield on the Birchwood Site;
2. The discovery of certain loose ends vis-à-vis the Township's existing Judgment of Compliance and Repose;
3. The inclusionary development proposal on the currently-developed Hartz Mountain Site; and
4. The potential redevelopment of the North Avenue Site.

The Township's Actions Concerning the Birchwood Site

It was no secret that the Township strenuously opposed the 419-unit proposed project that was the subject of CDA's builder's remedy lawsuit. See Wall Cert. at para. 4. Even though Judge Chrystal accepted Special Master McKenzie's recommendation to reduce it to a 360-unit project, it remained far too dense in the Township's opinion. Id. at para. 5. Therefore, in 2016, the Township took its initial steps to acquire the Birchwood Site and to permit a much more suitable density. Id. at para. 6. In doing so, however, Cranford remained mindful that any decrease in the affordable housing yield had to be addressed in some other manner. Id. at para. 7.

During the first half of 2016, the Township and CDA began negotiating a price and terms for acquisition of the Birchwood site. Id. at para. 8. Beginning with an initial phone call to CDA's legal counsel at the request of the Township Committee, the Township Administrator

first asked if CDA would consider reducing the density of its inclusionary development thereby avoiding the need for Cranford to purchase the site. Id. at para. 10.

The initial calls were less than productive, because CDA had already secured approvals for its 360-unit project and therefore was not interested in jeopardizing those approvals by starting a new process. Id. at para. 11. The Township Administrator reminded CDA that he was not involved with the contentious and expensive legal battle between CDA and the Township, and that his overall objective was to establish positive and proactive dialogue with CDA, regardless of the negative environment created by protracted litigation. Id. at para. 12.

Over an extended length of time and extensive discussions, CDA and the Township Administrator came to respect and appreciate their respective views, and they worked towards a potential sale that inured to the collective benefit of CDA and the Township. Id. at para. 13.

On February 8, 2017, the Township closed on the Birchwood site. Id. at para. 14.

The Township then took immediate steps to reduce the extreme density on the Birchwood site. Id. at para. 15. However, despite lowering the density, the Township also made sure that any development on the site would include a substantial amount of affordable housing.² See Wall Cert. at Exhibit A (RFP for development of the Birchwood site).

By the Township's estimate, the 54-unit yield from the CDA project would be decreased to about 33 units, based upon a 225-unit development with a 15 percent Mount Laurel set aside. Id. at para. 17. This decrease in yield is addressed in the Township's Initial RDP and Crediting Analysis. See Jedziniak Cert. at Exhibit C.

² Indeed, the Township even considered increasing the set aside percentage from 15 percent to a percentage high enough to yield the 54 units required in CDA's builder's remedy.

Assembly of the Township's Team of Professionals

Upon purchase of the Birchwood Site, it was quite clear to the Township that it needed to retain professionals experienced in Redevelopment; Mount Laurel law; and Mount Laurel Planning. It therefore assembled a team of subject matter professionals to guide it through the process appropriately and expeditiously. Id. at para. 19. The Township therefore retained the undersigned as Special Mount Laurel Counsel; Michael Mistretta, P.P., A.I.C.P. of Harbor Consultants as its Mount Laurel planning expert; and Randy Gottesman of CGH&P as its certified Mount Laurel Administrative Agent. Id. at para. 20.

Once on board, the Township's team of professionals embarked on a number of parallel tracks, including (1) performing a detailed review of the Township's Round 3 JOR to ensure compliance;³ (2) identifying and addressing any loose ends in the JOR; (3) and expediting the inclusionary development RFP process on the Birchwood site. Id. at para. 21. These actions are discussed below.

The Township's Actions Concerning the Deed Restrictions and Crediting Issues

The initial review of the Township's JOR revealed that it needed to settle deed restriction issues with two existing inclusionary development and to collect certain information from the various group homes in town to assure their creditworthiness. Having hired CGH&P as its expert Administrative Agent, the Township had confidence that the issues would be addressed quickly and efficiently.

That confidence proved to be well-founded. Soon after starting work for the Township, CGH&P took the following actions:

³ Naturally, the Township also kept Special Master McKenzie informed of the issues and its plans to address them. See Jedziniak Cert. at para. 8. Such communications were also practical inasmuch as they would help to avoid a wasteful circumstance where the Township took actions which the Special Master later disapproved. Id. at para. 9-11.

a. Contacted the owners of all 29 permanent group home bedrooms throughout the Township for purposes of assembling the documentation needed to perfect the Mount Laurel credits (and bonus credits) concerning same. The Township now has documentation for 10 bedrooms, including the 3 bedrooms that were previously approved in 2013. CGH&P is working fast to secure more from the 16 remaining bedrooms. See Certification of Randall Gottesman, P.P., dated July 14, 2017, at Exhibit C for a detailed summary of documentation and the current status for each structure, as well as related communications initiated by CGP&H.

b. Communicated with the owners of the Needlepoint and Riverfront developments to secure the deed restriction documentation for the affordable units referenced in the Township's existing Judgment of Compliance and Repose. CGP&H staff prepared deed restriction language and has a fully executed Needlepoint deed restriction, included herein. See Id. at Exhibit E.

c. Communicated with the owner of the Riverfront development to address the bedroom distribution issue referenced in Special Master McKenzie's 2013 Final Compliance Report. CGP&H staff prepared special deed restriction language to address this additional concern. We are in the process of resolving this matter.

These facts show that the Township identified – *and cured* – each of the deed restriction and crediting issues identified in its Round 3 JOR.

The Township's Actions Concerning the North Avenue Site⁴

The Township Committee has engaged the professional services of Harbor Consultants to review sections of North Avenue from a redevelopment perspective with specific directions to determine the viability of inclusionary zoning in the land use matrix. Wall Cert. at para. 32.

The Township's Actions Concerning The Hartz Mountain Site

In early 2017, Hartz Mountain filed a rezoning application pursuant the Township's Land Use Code seeking to convert its developed 30.5-acre property at 750 Walnut Avenue from commercial to residential uses. Wall Cert. at para. 23. Specifically, Hartz proposed to construct an inclusionary development of 905 total units, with an 11.6 percent (105-unit) Mount Laurel set

⁴ This site may not satisfy the statutory redevelopment criteria. In that case, no RDP would be generated. The Township is nevertheless taking a conservative approach by including the site as a component of its RDP calculation at this juncture.

aside. Id. at para. 24. Soon after filing its rezoning application, Hartz appeared before the Township's Development Review Committee and thereafter proceeded through rezoning application process in a manner similar to all such applicants. Id. at para. 25.

While pursuing its rezoning application, Hartz also asked the Township to consider engaging in a formal redevelopment process pursuant to the New Jersey Local Housing and Redevelopment Law, N.J.S.A. 40A:12A-1 et. seq. Id. at para. 26. Soon thereafter, representatives of Hartz and the Township met to discuss pros and cons of pursuing formal redevelopment of the site. The president of Hartz Mountain attended that meeting, as well as its legal counsel. Id. at para. 27. Since that meeting, Hartz voluntarily adjourned its rezoning application before the Cranford Planning Board to provide the Township time to make a decision regarding its request concerning the redevelopment issue. Id. at para. 28.

The Township Committee also granted Hartz' request to hold a public information session for the residents of the Township and to present its proposed project at a future Township Committee meeting in open public session. Id. at para. 29.

At this juncture, the Township and Hartz continue to maintain a positive and professional dialogue. Id. at para. 30. Although the outcome of Hartz's efforts to change the use of its property through the rezoning or redevelopment process is not settled, it is clear that Cranford has, and is continuing to, fulfill its obligation to consider the Hartz proposal pursuant to N.J.S.A. 52:27D-310 (f). Id. at para. 31. The Township has certainly kept an open mind to the possible change in permitted use of the property.

The Township's Actions To Address Other Open Issues Concerning Its Round 3 Judgment of Compliance and Repose

Through its team of newly-retained professionals, the Township carefully reviewed its Round 3 JOR and the associated Final Compliance Report, dated March 29, 2013, issued by

Special Master McKenzie. See Jedziniak Cert. at Exhibits A and B. This review revealed necessary actions to address various loose ends. Accordingly, the Township took the following actions:

1. It adopted an amended Spending Plan and requested judicial review and approval of same. See Jedziniak Cert. at Exhibit C.
2. It adopted a Rehabilitation Program Manual.
3. It adopted an Affirmative Marketing Plan for both the owner occupancy and rental occupancy rehabilitation programs. See Id. at Exhibit D
4. It adopted a Resolution of Intent to Bond. See Id. at Exhibit F.
5. It adopted a Resolution retaining CGP&H; a Resolution appointing CGP&H as its general Administrative Agent; and an Ordinance appointing CGP&H as the Administrative Agent for its Rehabilitation Program. See Id. at Exhibit G, H, and I.
6. It adopted an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing its Municipal Housing Liaison. See Id. at Exhibit J and K.
7. It adopted its general Affordable Housing Ordinance. See Id. at Exhibit L.

As with the deed restriction and group home crediting issues, the Township identified – and *cured* – each of the loose ends associated with its Round 3 Judgment of Compliance and Repose.

The Township's Communications with Special Master McKenzie

Once the Township completed the purchase of the Birchwood site, it recognized that the yield of affordable housing units would decrease from 54 to 34. To keep Special Master McKenzie informed, Cranford's professionals have communicated with her to make sure the Township was taking appropriate actions and to address her concerns. See Jedziniak Cert. at para. 8 - 11. Since one of the vital functions of the Master is to facilitate and guide the municipality's efforts to adjust to changed circumstances and to fulfill the intent and purpose of the JOR (see JOR, paragraph 7), the Township will continue to work with Ms. McKenzie until it

secures approval of an amended Housing Element and Fair Share Plan and Round 3 Judgment of Compliance and Repose. *Id.* at para. 11.

The Township's Actions Concerning Its RDP and Crediting Analysis

The Township recognized its obligation to recalibrate the 5-unit RDP due to changed circumstances occurring after securing its JOR in 2013. The Township also acknowledges its obligation to create a *realistic* opportunity for satisfaction of its *realistic* development potential. Accordingly, the Township has identified changed circumstances since the entry of the JOR and recalibrated its RDP from 5 units to 163 units. *See* Jedziniak Cert. at Exhibit C. The Township also reassessed its Mount Laurel credits. This analysis shows that Cranford not only has completely satisfied its RDP, but also generated a surplus of 44 credits to apply to any obligation exceeding its RDP. *Ibid.* The Township also has a surplus of 60 age-restricted affordable units.

The Township's recalibration shows that its RDP has raised 3,260 percent since 2013. Nevertheless, because Cranford has a total of 270 Mount Laurel credits, it can satisfy its 163-unit RDP and carry forward a surplus of 104 credits. Clearly, Cranford has taken the obligations set forth in its JOR very seriously by taking appropriate steps not only to satisfy those obligations, but also to substantially *exceed* them.

The Township's Proposed Course of Action

In light of the above, the Township respectfully asks this Court to take the following procedural approach to amend Cranford's Round 3 Judgment of Compliance and Repose:

1. Grant the Township leave to amend its Round 3 JOR;
2. Direct Special Master McKenzie, in accordance with paragraph 7 of the JOR, to review the Township's RDP analysis and its claims to credits and advise the Court as to her recommendations as to the magnitude of the RDP and the number of credits to which the Township is entitled;

3. Direct the Township to provide the Special Master with a preliminary plan on how to address the unmet need, without prejudice to any position the Township may have on this issue, by a date the Master specifies, and ask the Master to provide the Court with her recommendations;

4. Require the Township to conform with COAH's procedural regulations at N.J.A.C. 5:91-13.1 through 13.6 to guide the Township, the Special Master, and any interested parties through the Affordable Housing Plan amendment process, the objection process, and the review and approval process culminating in a future Compliance Hearing.

The following analysis provides a sound basis for this approach.

LEGAL ARGUMENT

Under Mount Laurel law, once a municipality secures approval of its Housing Element and Fair Share Plan, certain changed circumstances trigger the need for corrective action. For example, if a site generates less affordable units than originally expected, the Court or COAH may require the municipality to address any gap. If a site that did not previously contribute to the RDP became available for development, that too could conceivably trigger an obligation to recalibrate the RDP.

Of course, some towns might be tempted to ignore the changed circumstance and take its chances that no one will notice – *not* Cranford. The Township has not only recognized its obligation to take corrective measures, but also, through this Motion, is taking the necessary corrective measures proactively. Thus, as the analysis below demonstrates, this Court should implement the proposed course of action specified supra at 11, thereby facilitating the Township's ability to secure approval of its amended Housing Element and Fair Share Plan without the need for any exclusionary zoning lawsuits.

**THIS COURT SHOULD GRANT THE TOWNSHIP LEAVE TO AMEND
ITS ROUND 3 JUDGMENT OF COMPLIANCE AND REPOSE**

The first step in this process is for the Township to secure leave to amend its existing Judgment of Compliance and Repose in a manner consistent with the procedures set forth in COAH's procedural regulations.

The Law

***Amending A Grant of Substantive Certification Pursuant to Provisions In The
FHA and COAH's Procedural Regulations at N.J.A.C. 5:91-13.1 et. seq.***

Under conventional legal principles, a party has a right to pursue an amendment to a final judgment via Rule 4:50-1 of the New Jersey Rules of Court. In a Mount Laurel context, however, a municipality under court jurisdiction has two valid courses of action: (1) it may seek redress pursuant to Rule 4:50-1; and (2) it may utilize the procedures set forth in the COAH regulations that delineate the process a town may utilize to amend its grant of substantive certification, which the Supreme Court recently stated is the functional equivalent of the entry of a Final Judgment of Compliance and Repose. See In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 6 (2015) (finding that a Judgment of Compliance and Repose is "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA."). The Supreme Court has always preferred deference to the Legislature and COAH in Mount Laurel matters. Hills Dev. Co. v. Tp. of Bernards, 103 N.J. 1, 63 (1986) ("Mount Laurel III") (stating that trial judges should follow COAH's criteria and guidelines "wherever possible."). Given this well-established principle, the Township respectfully asks this Court to utilize N.J.A.C. 5:91-13.1 – 13.6 as its guidepost for the relief sought herein. The full version of that regulation is attached to the Jedziniak Cert. at Exhibit M.

The Facts

The Township's proactive measures are set forth in detail above and in the Certifications filed in support of this motion. However, a summary of the Township's actions are as follows:

1. The Township recognized and acknowledged that four "changed municipal circumstances" currently exist, namely; (a) a decrease in the affordable housing yield on the Birchwood site; (b) a number of issues concerning the deed restrictions on two inclusionary sites and crediting documentation for group homes within the Township; (c) a rezoning request submitted by the currently-developed Hartz Mountain site; and (d) the possible redevelopment of parcels along North Avenue in Cranford.
2. Even before filing this Motion, the Township aggressively sought to rectify the issues. Specifically, the Township has:
 - i. Assembled a team of professionals experienced in Redevelopment, Mount Laurel law; Mount Laurel planning issues; and the administration of affordable housing units;
 - ii. Issued a detailed RDP for the Birchwood parcel that requires the site to be developed as an inclusionary project and commenced discussions for redevelopment;
 - iii. Identified and effectively cured each of the deed restriction issues;
 - iv. Collected a substantial amount of the crediting documentation associated with the 33 group home bedrooms currently located in the Township;
 - v. Is considering the request of Hartz Mountain to engage in a redevelopment process and the Planning Board is processing Hartz's application for a rezoning; and
 - vi. Authorized the Township's planning team to commence a redevelopment study on the North Avenue sites.
3. The Township also took a number of formal actions to tie up the loose ends associated with its existing Round 3 Judgment of Compliance and Repose.
4. Finally, it has communicated with Special Master McKenzie directly and often, to secure her guidance and flush out whether she has any concerns we need to consider in accordance with the terms of the JOR.

In addition to the activities summarized above, the Township recalibrated its RDP. See Jedziniak Cert. at Exhibit C. Fair Share Housing Center, Inc. v. Tp. of Cherry Hill, 173 N.J. 393 (2002) provides a sound basis for this proactive approach. The issue in Cherry Hill was particularly narrow. See Id. at 416 (deciding whether “a municipality could, in effect, exempt choice parcels of land from its affordable housing obligation *by the simple expedient of imposing a development fee.*”)(emphasis added). However, the more overarching principle stemming from Cherry Hill is that a town that had secured plan approval that included a “vacant land adjustment” of its fair share *must* take measures to address an increase in its RDP upon changed circumstances.

Specifically, Cherry Hill Township secured approval of its affordable housing plan at a time when the Garden State Race Track was still operational. During the Township’s period of repose, however, the track closed operations and the site was cleared for redevelopment. Cherry Hill took the position that this circumstance did not trigger an increase in its RDP, or require any corrective measures, because it would be collecting a significant fee via its approved Development Fee Ordinance. FSHC challenged that position, and the Supreme Court took direct certification of the issue. Id. at 401 n. 8.

The Court summoned COAH to provide a narrative of its positions concerning such changed circumstances. Id. at 412. The Court characterized COAH’s response as follows:

“A municipality that received an adjustment due to lack of land in addressing its first-round obligation ‘shall be presumed to have addressed its RDP, provided the municipality continues to implement the terms of its previous substantive certification.’” N.J.A.C. 5:93–4.2(f). COAH explains that pursuant to N.J.A.C. 5:93–4.2(g), “[a] municipality may address its RDP through any activity approved by the Council ... [and] *need not incorporate into its housing element and fair share plan all sites used to calculate the RDP, if the municipality can devise an acceptable means of addressing its RDP.*” COAH adds that

[t]he fact that N.J.A.C. 5:93–4.2(f) allows a presumption that a first-round RDP calculation will continue in the second round *does not permit Cherry Hill to ignore the fact that the racetrack site is now available for development and should now be included in Cherry Hill's vacant land inventory. The rule establishes a presumption, which can be rebutted by facts such as those that are presented here.... The Council's administration of vacant land adjustment [for] municipalities has always allowed for changes in the RDP calculation due to changed municipal circumstances.*

[Id. at 413 (emphasis in original, italics added).]

Thus, the Cherry Hill case stands for the proposition that, although vacant land adjustments are presumptively valid, the presumption can be rebutted “due to changed municipal circumstances.” Ibid. Here, instead of waiting for some person, organization, or business entity to force the Township to alter its 5-unit RDP calculation, Cranford is taking measures to do so voluntarily and proactively to avoid any more Mount Laurel litigation.

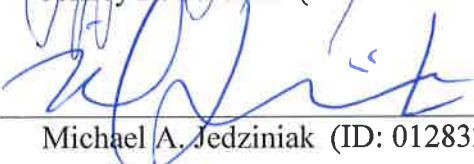
Not only has the Township recalibrated its RDP, but also it has outlined how it has satisfied its RDP and even generated a surplus. See Jedziniak Certification, Exhibit C. The Township also has 60 age-restricted affordable units that it can apply to any additional obligations.

CONCLUSION

For the foregoing reasons, the Township of Cranford respectfully asks this Court to grant it leave to amend its Final Round 3 Judgment of Compliance and Repose and to take the actions necessary to secure approval of its amended Round 3 Housing Element and Fair Share Plan.

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