

August 4, 2015

VIA UPS OVERNIGHT MAIL

Hon. Douglas K. Wolfson, J.S.C.
Middlesex County Courthouse
56 Paterson Street
PO Box 964, 4th Floor
New Brunswick, New Jersey 08903-0964

**Re: In re Petition of the Township of Woodbridge for a Declaratory
Judgment, Docket No. MID-L-03862-15**

Consent Order for Expenditure of Trust Funds

Dear Judge Wolfson:

This Firm represents the Township of Woodbridge (“the Township”) in the above - captioned declaratory judgment action seeking a determination that the Township is in compliance within its *Mount Laurel* obligation.

This is to request that the Court approve a reallocation of affordable housing trust funds to support two affordable housing projects. Specifically, we seek the Court’s approval of a Consent Order amending the Township’s 2012 Affordable Housing Spending Plan (“the 2012 Spending Plan”) to reallocate \$2,480,000.00 of affordable housing trust funds previously allocated to an affordable housing project known as the Hopelawn Project funds for use and support of the Jacobs Landing and the Dalina Manor affordable housing projects.

We have asked the Special Master to review this request and she has opined for the Court that our request is an “authorized and appropriate use of development fee trust funds.” See,



Letter from Elizabeth C. McKenzie to Hon. Douglas K. Wolfson, J.S.C. dated August 3, 2015 (copy attached).

Background

On June 12, 2012, the Woodbridge Township Council adopted an Amended Housing Element and Fair Share Plan (“the 2012 HE/FSP”), and constituent 2012 Spending Plan, developed in consultation with the Special Master and then-effective regulations of the Council on Affordable Housing (COAH). The Township’s 2012 Spending Plan proposed to spend \$2,480,000.00 from the Woodbridge Affordable Housing Trust Fund to support the development of the Hopelawn Project, an inclusionary development that included 104 market-rate units and 27 affordable units. On or about July 23, 2013 the Township transferred \$2,480,000.00 to the Woodbridge Affordable Housing Corporation (WAHC) in furtherance of the Hopelawn Project. Shortly thereafter, the Hopelawn Project was found to be impracticable due to environmental issues and the developer’s difficulty in obtaining site control.

Reallocation of Funds

Consequently the Township now seeks to reallocate the original \$2,480,000.00 designated for the Hopelawn Project to support the Jacobs Landing and the Dalina Manor projects. Jacobs Landing is a two-phase redevelopment of Woodbridge Gardens, a 150-unit public housing project, which will be demolished and replaced with 202 units of 100% family affordable rental housing; \$1,250,000.00 will be allocated to Phase 1, which will consist of 96 units and \$980,000.00 will be allocated to Phase II, which will consist of 106 units. The Township also seeks to allocate \$250,000.00 to the Dalina Manor project, a 57-unit 100% affordable senior development involving the acquisition and redevelopment of a former VFW Hall in the Hopelawn section of the Township. WAHC is partnering with Ingerman Development Company (“Ingerman”) to pursue the Jacobs Landing and Dalina Manor projects.

In conjunction with the Jacobs Landing and Dalina Manor Projects, the Township, WAHC, the Woodbridge Housing Authority and Ingerman are working collaboratively to apply for Low Income Housing Tax Credits from the New Jersey Housing and Mortgage Finance Agency (“NJHMFA”) in the current funding round. Ingerman made a timely application which was due July 24, 2015. A critical component in the NJHMFA tax credit scoring criteria is that the applicant obtains a “local contribution” to the project of at least 5% of the total project cost.

Ingerman informs us that with a municipal commitment to affordable housing trust funds of \$1,250,000.00 for the Jacobs Landing project and \$250,000.00 for the Dalina Manor project, those projects will achieve the maximum score available in their respective categories (family housing and senior housing) under the tax credit scoring criteria. Thus, each project stands to be extremely competitive in the current funding round; conversely, without the “local contribution” points, it is highly unlikely that either project will achieve a score that would result in a tax credit award. In order to document the commitment of a local contribution to a project from a municipality’s affordable housing trust funds, NJHMFA requires the applicant to provide a copy of the municipal spending plan that includes the project in question, together with a copy of the resolution approving such spending plan.

Court’s Authority

This Court has jurisdiction and authority over the municipal expenditure of affordable housing trust funds in accordance with In re Failure of the Council on Affordable Housing to Adopt Trust Fund Regulations, 440 N.J. Super. 220, 228 (App. Div. 2015). (“The use and disposition of those [affordable housing trust] funds shall be decided in the first instance, by *Mount Laurel*-designated trial judges.”) We have presented our proposed reallocation of trust funds to the Special Master who has opined for the Court that our request is an “authorized and appropriate use of development fee trust funds” Therefore we enclose for the Court’s

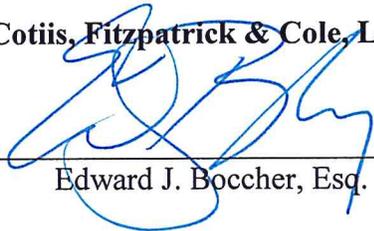
consideration a proposed Consent Order, executed by the Special Master, which we ask that the Court enter in order to facilitate the application for tax-credit financing by Ingerman.

We are providing copies of this request to all the Parties on the Supreme Court Service List and notice of the request to all Parties on the COAH Service List consistent with the Court's Notice Order of July 23, 2015.

We thank the Court for its consideration.

Respectfully submitted,

DeCotiis, Fitzpatrick & Cole, LLP

By: 

Edward J. Boccher, Esq.

EJB:kh

cc: Supreme Court Service List (via Overnight Delivery)

COAH Service List (Court Notice) (via Regular Mail)

Mayor John McCormac (w/encl., via Email)

Caroline Ehrlich (w/encl., via Email)

Robert Landolfi (w/encl., via Email)

Marta Lefsky (w/encl., via Email)

Edward J. Boccher, Esq.
Attorney I.D. # 020501980
DeCOTIIS, FITZPATRICK & COLE, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666
Tel: (201) 928-1100
eboccher@decotiislaw.com
*Attorneys for Petitioner,
Township of Woodbridge*

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
WOODBIDGE, MIDDLESEX
COUNTY, NEW JERSEY, FOR A
DECLARATORY JUDGMENT,

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:MIDDLESEX COUNTY

DOCKET NO.: MID-L-03862-15

CIVIL ACTION
Mount Laurel Action

**CONSENT ORDER FOR
EXPENDITURE OF TRUST FUNDS**

THIS MATTER comes before the Court upon the application of DeCotiis, FitzPatrick & Cole, LLP, attorneys for Petitioner, Township of Woodbridge (the “Township” or “Woodbridge”), seeking the entry of a Consent Order amending the Township’s 2012 Affordable Housing Spending Plan (“the 2012 Spending Plan”) to reallocate \$2,480,000.00 of affordable housing trust funds previously allocated to an affordable housing project known as the Hopelawn Project funds for use and support of affordable housing projects known as Jacobs Landing and the Dalina Manor; and

IT APPEARING on June 12, 2012, the Township Council adopted an Amended Housing Element and Fair Share Plan (“the 2012 HE/FSP”) developed in consultation with the

Special Master consistent with then-effective regulations of the Council on Affordable Housing (COAH); and

IT FURTHER APPEARING that on June 12, 2012, in conjunction with the endorsement of the 2012 HE/FSP, the Township approved the 2012 Spending Plan and adopted a resolution setting forth a commitment to fund costs associated with the implementation of the 2012 HE/FSP; and

IT FURTHER APPEARING the Township's 2012 Spending Plan proposed to spend \$2,480,000.00 from the Woodbridge Affordable Housing Trust Fund to support the development of the Hopelawn Project, an inclusionary development that included 104 market-rate units and 27 affordable units; and

IT FURTHER APPEARING that on or about July 23, 2013 the Township transferred \$2,480,000.00 to the Woodbridge Affordable Housing Corporation (WAHC) in furtherance of the Hopelawn Project; and

IT FURTHER APPEARING that shortly thereafter the Hopelawn Project was determined to be impracticable due to environmental issues and difficulty in obtaining site control; and

IT FURTHER APPEARING that as a result of the infeasibility of the Hopelawn Project, the Township now seeks to reallocate the original \$2,480,000.00 designated for the Hopelawn Project to support the Jacobs Landing and the Dalina Manor projects; and

IT FURTHER APPEARING the Jacobs Landing Project is a two-phase redevelopment of Woodbridge Gardens, a 150-unit public housing project, which will be demolished and replaced with 202 units of 100% family affordable rental housing; \$1,250,000.00 will be

allocated to Phase 1, which will consist of 96 units and \$980,000.00 will be allocated to Phase II, which will consist of 106 units; and

IT FURTHER APPEARING the Township also seeks to allocate \$250,000.00 to the Dalina Manor project, a 57-unit 100% affordable senior development involving the acquisition and redevelopment of a former VFW Hall in the Hopelawn section of Woodbridge Township; and

IT FURTHER APPEARING that the WAHC is partnering with Ingerman Development Company (“Ingerman”) to pursue the Jacobs Landing and Dalina Manor projects; and

IT FURTHER APPEARING that, in conjunction with the Jacobs Landing and Dalina Manor Projects, the Township, WAHC, the Woodbridge Housing Authority and Ingerman are working collaboratively to apply for Low Income Housing Tax Credits from the New Jersey Housing and Mortgage Finance Agency (“NJHMFA”) in the current funding round, with applications due on July 24, 2015; and

IT FURTHER APPEARING a critical component in the NJHMFA tax credit scoring criteria is that the applicant obtain a “local contribution” to the project of at least 5% of the total project cost; and

IT FURTHER APPEARING that with affordable housing trust fund allocations of \$1,250,000.00 for the Jacobs Landing project and \$250,000.00 for the Dalina Manor project, each of which is anticipated to achieve the maximum score available in their respective categories (family housing and senior housing) under the tax credit scoring criteria, each project stands to be extremely competitive in the current funding round; and, conversely, without the

“local contribution” points, it is highly unlikely that either project will achieve a score that would result in a tax credit award; and

IT FURTHER APPEARING that in order to document the commitment of a “local contribution” to a project from a municipality’s affordable housing trust funds, NJHMFA requires the applicant to provide a copy of the municipal spending plan that includes the project in question, together with a copy of the resolution approving such spending plan; and

IT FURTHER APPEARING that the Township has presented the within proposed reallocation of affordable housing trust funds to the Special Master appointed in this matter and the Special Master has reviewed the proposed reallocation and recommends that the Court approve the reallocation; and

IT FURTHER APPEARING that the Court has granted leave to Fair Share Housing Center (FSHC) to intervene in the within action and FSHC is the only party which has sought leave to intervene; and

IT FURTHER APPEARING that FSHC has also reviewed the proposed reallocation of trust funds and has no objection to such reallocation; and

IT FURTHER APPEARING that this Court has jurisdiction and authority over the municipal expenditure of affordable housing trust funds in accordance with In re Failure of the Council on Affordable Housing to Adopt Trust Fund Regulations, 440 N.J. Super. 220 (App. Div. 2015); and

IT FURTHER APPEARING that the reallocation of affordable housing trust funds as set forth herein will promote the development of affordable housing; and

IT IS this on this _____ day of _____, 2015:

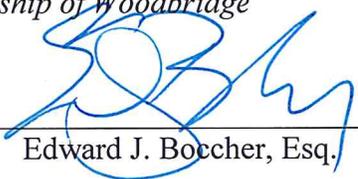
ORDERED that the Township's 2012 Spending Plan is HEREBY AMENDED to permit and authorize the Township of Woodbridge to reallocate \$2,480,000.00 previously allocated to the Hopelawn Project for the development of the Jacobs Landing and Dalina Manor projects.

A copy of this Order shall be served upon all Parties within ten (10) days of its entry.

Hon. Douglas K. Wolfson, J.S.C.

WE HEREBY CONSENT TO THE ENTRY OF THE WITHIN ORDER:

DECOTIIS, FITZPATRICK & COLE, LLP
Attorneys for Petitioner
Township of Woodbridge

By: 

Edward J. Boccher, Esq.

COURT APPOINTED SPECIALMASTER

By: _____
Elizabeth C. McKenzie, P.P., P.A.

ORDERED that the Township's 2012 Spending Plan is HEREBY AMENDED to permit and authorize the Township of Woodbridge to reallocate \$2,480,000.00 previously allocated to the Hopelawn Project for the development of the Jacobs Landing and Dalina Manor projects.

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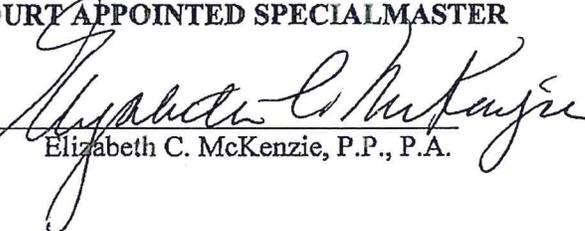
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Attorneys for Petitioner
Township of Woodbridge

By: _____
Edward J. Boccher, Esq.

COURT APPOINTED SPECIALMASTER

By: 
Elizabeth C. McKenzie, P.P., P.A.

ELIZABETH C. MCKENZIE, P.P., P.A.

COMMUNITY PLANNING AND DEVELOPMENT

9 MAIN STREET

FLEMINGTON, NEW JERSEY 08822

TELEPHONE (908) 782-5564

TELEFAX (908) 782-4056

ecmcke@embarqmail.com

August 3, 2015

The Honorable Douglas K. Wolfson, J.S.C.
Middlesex County Superior Court
Middlesex County Court House, Courtroom 408
56 Paterson Street
P.O. Box 964
New Brunswick, New Jersey 08903

Re: In Re Petition of the Township of Woodbridge for a
Declaratory Judgment, Docket No.: MID-L-03862-15,
Request for Reallocation of Trust Funds from Hopelawn to
Jacobs Creek and Dalina Manor (Ingerman) Projects

Dear Judge Wolfson:

The Township of Woodbridge has asked for my recommendation in support of its request for the Court's approval of a reallocation of funds within the Township's 2012 Spending Plan. The \$2.48 million in question was originally proposed to be spent on a conversion project known as the Hopelawn Project. I am informed by Mr. Boccher, counsel for Woodbridge, that the developer of that project does not have reliable site control at this time. It is my understanding that the two new projects to which these funds would be diverted, Jacobs Creek and Dalina Manor, will result in the following:

1. Jacob's Creek: Replacement of an existing 150 unit public housing project with 202 new units of affordable family rental housing (net increase of 52 units, with new affordability controls); and
2. Dalina Manor: Conversion of the former VFW Hall in the Hopelawn section of Woodbridge to 57 affordable senior units.

The net number of new affordable units as a result of these two projects will be 109 units.

Both of these projects are intended to be undertaken by the Ingerman Group, an experienced affordable housing provider, using NJHMFA financing.

ELIZABETH C. MCKENZIE, P.P., P.A.

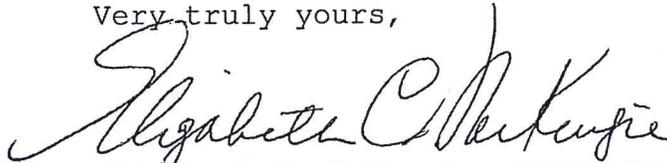
The Honorable Douglas K. Wolfson, J.S.C.
Middlesex County Superior Court
August 3, 2015
Page Two of Two

It is important for the Township to be able to obtain Court approval for this reallocation of funds in the 2012 Spending Plan now in order not to jeopardize an application to NJHMFA under the current funding cycle. The Township's commitment to provide funding in support of the project is a critical element in the competition for NJHMFA funding.

While I cannot yet offer any opinion as to the creditworthiness of the units proposed (as I have no additional information on them other than what I have provided in this letter) or their creditworthiness in the context of the Township's 2015 Housing Element and Fair Share Plan, I am comfortable in saying to the Court that the proposed expenditure is one that is an authorized and appropriate use of development fee trust funds. Moreover, I believe that the use of such funds for projects that have a chance of success is something that should be encouraged.

I hope that this letter is of some assistance to the parties and to the Court in its deliberations on this matter.

Very truly yours,



Elizabeth C. McKenzie, AICP, PP

Enclosure

cc: Edward J. Boccher, Esquire
Kevin D. Walsh, Esquire
Caroline Ehrlich
Robert Landolfi
J. Reynolds, Ingerman Group

Edward J. Boccher, Esq.
Attorney I.D. # 020501980
DeCOTIIS, FITZPATRICK & COLE, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
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eboccher@decotiislaw.com
*Attorneys for Petitioner,
Township of Woodbridge*

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
WOODBIDGE, MIDDLESEX
COUNTY, NEW JERSEY, FOR A
DECLARATORY JUDGMENT,

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:MIDDLESEX COUNTY

DOCKET NO.: MID-L-03862-15

CIVIL ACTION
Mount Laurel Action

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IT FURTHER APPEARING that shortly thereafter the Hopelawn Project was determined to be impracticable due to environmental issues and difficulty in obtaining site control; and

IT FURTHER APPEARING that as a result of the infeasibility of the Hopelawn Project, the Township now seeks to reallocate the original \$2,480,000.00 designated for the Hopelawn Project to support the Jacobs Landing and the Dalina Manor projects; and

IT FURTHER APPEARING the Jacobs Landing Project is a two-phase redevelopment of Woodbridge Gardens, a 150-unit public housing project, which will be demolished and replaced with 202 units of 100% family affordable rental housing; \$1,250,000.00 will be

allocated to Phase 1, which will consist of 96 units and \$980,000.00 will be allocated to Phase II, which will consist of 106 units; and

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IT FURTHER APPEARING that the Township has presented the within proposed reallocation of affordable housing trust funds to the Special Master appointed in this matter and the Special Master has reviewed the proposed reallocation and recommends that the Court approve the reallocation; and

IT FURTHER APPEARING that the Court has granted leave to Fair Share Housing Center (FSHC) to intervene in the within action and FSHC is the only party which has sought leave to intervene; and

IT FURTHER APPEARING that FSHC has also reviewed the proposed reallocation of trust funds and has no objection to such reallocation; and

IT FURTHER APPEARING that this Court has jurisdiction and authority over the municipal expenditure of affordable housing trust funds in accordance with In re Failure of the Council on Affordable Housing to Adopt Trust Fund Regulations, 440 N.J. Super. 220 (App. Div. 2015); and

IT FURTHER APPEARING that the reallocation of affordable housing trust funds as set forth herein will promote the development of affordable housing; and

IT IS this on this _____ day of _____, 2015:

ORDERED that the Township's 2012 Spending Plan is **HEREBY AMENDED** to permit and authorize the Township of Woodbridge to reallocate \$2,480,000.00 previously allocated to the Hopelawn Project for the development of the Jacobs Landing and Dalina Manor projects.

A copy of this Order shall be served upon all Parties within ten (10) days of its entry.

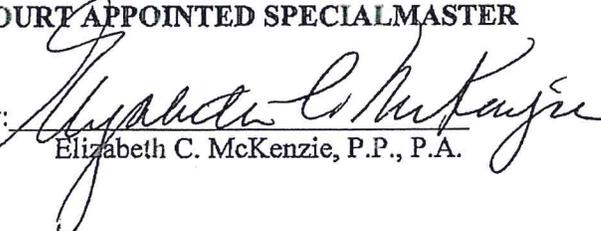
Hon. Douglas K. Wolfson, J.S.C.

WE HEREBY CONSENT TO THE ENTRY OF THE WITHIN ORDER:

DECOTIIS, FITZPATRICK & COLE, LLP
Attorneys for Petitioner
Township of Woodbridge

By: _____
Edward J. Boccher, Esq.

COURT APPOINTED SPECIALMASTER

By: 
Elizabeth C. McKenzie, P.P., P.A.

Edward J. Boccher, Esq.
Attorney I.D. # 020501980
DeCOTIIS, FITZPATRICK & COLE, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666
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eboccher@decotiislaw.com
*Attorneys for Petitioner,
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IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
WOODBRIIDGE, MIDDLESEX
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DECLARATORY JUDGMENT,

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:MIDDLESEX COUNTY

DOCKET NO.: MID-L-03862-15

CIVIL ACTION
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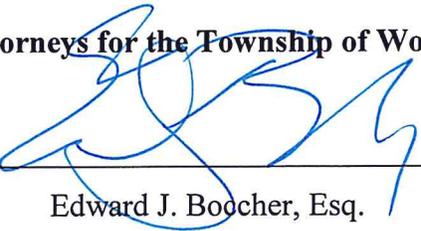
**NOTICE OF FILING OF REQUEST
FOR ENTRY OF CONSENT ORDER**

Sir / Madam:

The undersigned counsel for Petitioner Township of Woodbridge has submitted a request for entry of a Consent Order to permit the reallocation of affordable housing trust funds to the Court.

As allowed for by Judge Wolfson's order in the above-captioned matter, any interested party may access the complete filing on this motion at the following web address: www.twp.woodbridge.nj.us. Upon request by any interested party to the office listed above, Counsel for Petitioner also will provide paper copies of the complete filing.

Attorneys for the Township of Woodbridge

By: 

Edward J. Boccher, Esq.

Dated: 8/4/15

NOTICE FOR CONTINUED SERVICE

You are receiving this notice because you had previously been a member of the COAH service list in the Township of Woodbridge and the Township has now filed a declaratory judgment action seeking approval of its compliance with its obligations under the Mount Laurel doctrine and New Jersey Fair Housing Act.

We are writing to see if you wish to continue to receive these notices.

You will not receive notice of further filings unless you notify the undersigned by phone, fax or email NO LATER THAN August 19, 2015 that you wish to continue to receive notice. Otherwise you will receive no further notices of any filings by any party in this matter.

Thank you for your time and attention to this matter.

Please send requests for continued service to:

Edward J. Boccher, Esq.
DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666

Phone: 201-938-1100
Fax: 201-928-0588
eboccher@decotiislaw.com