

## **NEWS RELEASE**

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### **Livingston Settles Two Affordable Housing Suits**

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(Livingston, NJ) – On Monday night the Township Council approved a settlement with two private developers seeking to prove that the Township is not providing its fair share of affordable housing. Under the jurisdiction of the court, Livingston officials have been negotiating a settlement with two of the four litigants who filed “builder’s remedy” suits against the Township.

The Township announced the suits in October and held a successful Informational Forum for interested citizens on November 13, 2008. The Forum was attended by more than 50 Livingston residents and residents from neighboring communities. At the Forum, detailed information was provided about the history of affordable housing in New Jersey which began in the 1970’s and pointed out that the New Jersey Supreme Court ruled affordable housing is a constitutional obligation for which all New Jersey municipalities have a responsibility. The Council on Affordable Housing (COAH), a state agency was created to promulgate rules under which all municipalities would be required to provide affordable housing.

The latest round of COAH rules, known as the “third round” took effect in 2005. A subcommittee of the Livingston Planning Board, along with two members of the Township Council, the Township Manager, special COAH Counsel and the Township Planner, has been working on the plan to meet the Township’s affordable housing requirements since that time. Mayor Gary Schneiderman noted that “just as the Township was completing the plan, the COAH rules were invalidated by the court sending the plan back to the drawing board and shortly after that the Township received three of four builder’s remedy lawsuits.”

“With the complexity of the COAH rules and the ever changing landscape of those rules, the Township was very fortunate to have the excellent professional assistance of planner, Janice Talley and special counsel Gary Hall,” Schneiderman added.

“The current COAH rules require municipalities to provide a significant density increase to developers to make projects economically feasible in exchange for taking on the burden of providing affordable housing, particularly for rental projects,” indicated Township Manager Michele Meade.

Meade added that the Township had to respond to the sites that were chosen by the developers who pursued litigation and not sites that were chosen by the Township. “Under a builder’s remedy suit it’s no longer a choice for the municipality as to where affordable housing will be built.”

The first of the two sites subject of Monday night’s settlement is at the Joseph Kushner Hebrew Academy (JKHA), off South Orange Avenue, on land behind the school that currently accommodates playing fields. The other site is on South Orange Avenue on the border with Millburn Township at the intersection of White Oak Ridge Road.

JKHA was seeking as many as 368 units on the 11.65 acre site which the Township was successful in negotiating down to no more than 226 units. The units would be comprised of not more than 114 townhouses and not more than 112 apartments. 20% of the 226 units would be affordable.

TMB, the developer on the South Orange Avenue and White Oak Ridge Road site has two options in the settlement with the Township. The first is three mid-rise buildings with an aggregate of 84 units of which not less than 20 would be affordable. The second option is for two mid-rise residential building with a total of 100 units, of which not less than 20 would be affordable, plus a single story professional office building.

One of the major considerations for the Subcommittee working on the settlements was to make sure that the affordable housing integrates into the community in a manner consistent with the character of Livingston. Design and aesthetics were a major consideration.

Before these settlements agreements can be finalized, they must be signed off by the Judge and the Special Master appointed by the Judge to make sure the agreements conform to COAH rules.

Still pending are the other builder’s remedy lawsuits filed by Squiretown Properties, whose site is located along Eisenhower Parkway just south of Old Road, and Hillside-Northfield Partners, whose site is on West Northfield Avenue where Du Brows is currently located.

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