

TOWNSHIP OF UPPER DEERFIELD

RESOLUTION 16-295

RESOLUTION OF THE TOWNSHIP OF UPPER DEERFIELD, COUNTY OF CUMBERLAND, DECLARING ITS INTENT TO FULLY COMPLY WITH ITS CURRENT AND FUTURE MOUNT LAUREL OBLIGATIONS AND TO SERVE AS THE "CATALYST FOR CHANGE" TO RENDER ANY MOUNT LAUREL LAWSUITS AS "UNNECESSARY LITIGATION"

WHEREAS, in So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158, 279-80 (1983) ("Mount Laurel II"), the New Jersey Supreme Court ruled, subject to several other limitations, that in order for a plaintiff to be entitled to a builder's remedy, it must "succeed in litigation;" and

WHEREAS, in Toll Bros. Inc. v. Tp. of W. Windsor, 173 N.J. 502, 507 (2002), the Supreme Court ruled that in order for a developer to succeed in litigation, it must not only prove that the municipality failed to create a realistic opportunity to satisfy its affordable housing obligation, but also must be the "catalyst for change;" and

WHEREAS, the Appellate Division of the Superior Court of the State of New Jersey has in its decision in the matter of Hollyview Development Corp. vs. the Township of Upper Deerfield decided on December 14 2016, confirmed that Upper Deerfield Township has provided 285 affordable housing units pursuant to its second round affordable housing obligation, and has therefore satisfied its second round affordable housing obligation of 242 affordable housing units; and

WHEREAS, the decision of the Appellate Division in Hollyview has confirmed that Upper Deerfield Township has fully satisfied its second round affordable housing obligations; and

WHEREAS, as a result of the court's determination that Upper Deerfield provided 285 affordable units in satisfaction of its 242 unit Prior Round obligation, the excess 43 units can be applied to Upper Deerfield's third round obligation; and

WHEREAS, as recognized by the court, Upper Deerfield Township is also entitled to claim additional credits by way of rental bonuses; and

WHEREAS, now that Upper Deerfield Township's compliance with its second round affordable housing obligation has been settled, the Township is now in a position to voluntarily address its third round affordable housing obligation; and

WHEREAS, the Township has retained Econsult Solutions, Inc. ("Econsult") as its expert to calculate its affordable housing obligations, and Econsult has calculated Upper Deerfield's third round obligation to be zero; and

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper Deerfield as follows:

1. The Township Committee hereby reaffirms its commitment to satisfy its affordable housing obligations, however they may ultimately be defined, voluntarily and in the absence of any Mount Laurel lawsuits, including builder's remedy lawsuits,

2. The Township Committee hereby directs Upper Deerfield Township's planning professionals to immediately commence a review and revision, if necessary, of the Upper Deerfield Township's Housing Element and Fair Share Plan to incorporate the courts determination of Upper Deerfield's compliance with its second round obligation, to compute the excess credits applicable to Upper Deerfield Township's third round obligation, to begin an evaluation of Upper Deerfield Township's present and prospective needs as required by the most recent Supreme Court's March 10, 2016 Mount Laurel IV decision, and to review and revise as necessary the Upper Deerfield Township affordable housing ordinances to provide a realistic opportunity for compliance with upper Deerfield Township's third round affordable housing obligation.

3. The Municipal solicitor is hereby authorized and directed to take such actions as may be necessary to seek such certifications and determinations that Upper Deerfield Township is in compliance with its third round affordable housing obligation as may be required under Mount Laurel IV

4. The Township Clerk is hereby directed to place this Resolution on file in Township Municipal Building until further notice to put the public and all interested parties on notice of the Township's commitment to comply voluntarily and to take the actions set forth herein.

Moved By: Bruce Peterson

Seconded By: John Daddario

VOTING

James P. Crilley
John L. Daddario
John T. O'Neill, Sr.
Bruce T. Peterson
Scott Smith

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
X			
X			
X			
X			
X			

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held December 15, 2016.

Roy J. Spoltore, Township Clerk