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**FILED**

JUL 24 2015

KAREN M. CASSIDY  
A.J.S.C.

IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH  
OF ROSELLE PARK, COUNTY OF  
UNION

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: UNION COUNTY

DOCKET NO: UNN-I-2061-15

UNN-I-2061-15

Civil Case

(Mount Laurel II)

**ORDER MAINTAINING AND  
REAFFIRMING THE BOROUGH'S  
IMMUNITY FROM MOUNT LAUREL  
LAWSUITS**

THIS MATTER having been opened to the Court by Jeffrey R. Surenian and Associates, LLC, Jeffrey R. Surenian, Esq. and Michael A. Jedziniak, Esq. appearing on behalf of declaratory plaintiff, Borough of Roselle Park (hereinafter "the Borough"); and the Roselle Park Planning Board (hereinafter "Planning Board") having previously adopted a Housing Element and Fair Share Plan for all three housing cycles; and on September 27, 2010 the Borough having secured a Judgment of Compliance and Repose from the court; and the Supreme Court and Legislature having encouraged municipalities to comply with their affordable housing obligations voluntarily (Mount Laurel II, 92 N.J. at 214 and N.J.S.A. 52:27D-303); and Roselle Park having exhibited a desire to comply voluntarily; and COAH having failed to adopt new Round 3 regulations by the October 22, 2014 deadline the Supreme Court established (see In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("In re COAH"); and this failure having prevented COAH from being able to process the petition for substantive certification of any municipality; and the Supreme Court having determined that municipalities bear no responsibility for COAH's failure to adopt new regulations in a timely fashion; and the Court having further determined that, therefore, municipalities should not suffer prejudice because of COAH's failure; and the Supreme Court having determined that the task of implementing the Mount Laurel doctrine should revert from COAH to the courts because of COAH's failure to adopt new regulations by the deadline it imposed; and, accordingly, the Supreme Court having determined that our trial courts in lieu of COAH must now "establish . . . [the] presumptive constitutional housing obligations for each municipality" and "identify the permissible means which a town's proposed affordable housing plan, housing element, and implementing ordinances can satisfy that obligation" (In re COAH, 221 N.J. at 33); and the Supreme Court having further determined that the municipalities under COAH's jurisdiction should enjoy the same protections from exclusionary zoning litigation in a Court proceeding that the New Jersey Fair Housing Act ("FHA") conferred on them in a COAH proceeding; and the Supreme Court in In re COAH having further emphasized the importance and value of voluntary

municipal compliance (In re COAH, 221 N.J. at 33); and the immunity doctrine having arisen as a result of trial judges implementing the charge of the Supreme Court in Mount Laurel II to foster voluntary compliance; and the Borough having committed itself to comply voluntarily by having secured a Judgment of Compliance and Repose for all three rounds and through other actions; and Mount Laurel jurisprudence having clearly established the principle that voluntary compliance is preferable to exclusionary zoning litigation; and it appearing that immunity should be maintained (1) to bar the filing and serving of any Mount Laurel lawsuits; (2) to promote voluntary compliance; and (3) to facilitate the resolution of all issues concerning the Borough's Mount Laurel responsibilities expeditiously and with as little additional burden to the public as possible; and the Court having considered the pleadings and related papers filed in this matter and the arguments of counsel; and good cause appearing.

IT IS on this 24<sup>th</sup> day of July, 2015, ORDERED as follows:

1. The Court hereby enters this Protective Order maintaining and reaffirming that the Borough of Roselle Park, the governing body of the Borough of Roselle Park, and the Planning Board of the Borough of Roselle Park are immune from the filing and serving of any Mount Laurel lawsuits.

2. The protections from Mount Laurel suits contemplated in this Order shall commence on June 8, 2015, the effective date of In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015).

~~3. The protections from Mount Laurel suits contemplated in this Order shall remain in effect for five (5) months from the date the Borough receives an Order establishing the presumptive constitutional housing obligations for Roselle Park and identifying the permissible means which the Borough's proposed affordable housing plan, housing element, and implementing ordinances can satisfy those obligations and such additional time as the Court deems just and reasonable.~~

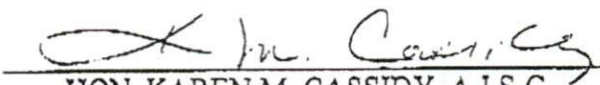
OR, IN THE EVENT THE COURT DENIES THE RELIEF IN PARAGRAPH 3 ABOVE, THE BOROUGH SEEKS THE FOLLOWING RELIEF IN LIEU THEREOF

4. The protections of the Borough and Planning from Mount Laurel suits created by this Order shall remain in effect for five (5) months from the date the Borough filed its Declaratory Judgment Complaint and such additional time as the Court deems just and reasonable <sup>on</sup> application to the Court. (6/11/2015) <sup>may</sup>

5. Nothing herein should be construed to invalidate the Borough's Round 3 Judgment of Compliance and Repose, which is presumed valid.

6. Counsel for the Borough shall provide all parties on the Service/Notice List with a copy of this Order within seven (7) days of receipt.

All case management conference in Guilford Hall shall take place on July 29, 2015 @ 2pm.

  
HON. KAREN M. CASSIDY, A.J.S.C.