

TOWNSHIP OF CLARK  
Resolution 15-84  
July 6, 2015

Motion O'Connor Second Albanese

**WHEREAS** it has come to the attention of the Township of Clark that New Jersey Supreme Court issued an opinion *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing* and

**WHEREAS** the Court decided that it would dissolve the exhaustion-of-administrative-remedies under the Fair Housing Act of 1985 (FHA); and

**WHEREAS** the holding authorizes the courts to hear and decide actions addressing municipal compliance with constitutional *Mount Laurel* obligations by municipalities that sought protections of the FHA through COAH; and

**WHEREAS** the holding permits municipalities file a declaratory judgment action seeking a judicial determination that it's housing plan is presumptively valid because it presents a realistic opportunity for the provision of its fair share of its housing region's present and prospective need for low- and moderate-income housing; and

**WHEREAS** in the event that a municipality does not file a declaratory judgment action, an action solely focused on whether the municipality's housing plan meets its *Mount Laurel* obligations may be brought by a party against that municipality; and

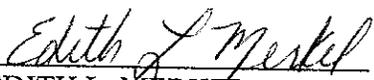
**WHEREAS** in all declaratory judgment actions brought before the Courts, the trial court may grant temporary periods of immunity prohibiting exclusionary zoning actions from proceeding against the municipality; and

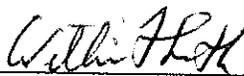
**WHEREAS** in all declaratory judgment actions brought before the Courts, the trial court's approval of a municipality's plan may result ultimately in the municipality's receipt of the judicial equivalent of substantive certification and accompanying protection as provided under the FHA; and

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Clark, authorizes the Township to file a declaratory judgment action for the Court's evaluation of the Township's plan as proof of constitutional compliance.

ATTEST:

APPROVED:

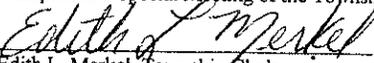
  
EDITH L. MERKEL, RMC  
Township Clerk

  
WILLIAM F. SMITH  
Council President

Res15/7-6 COAH Declaratory Judgment	
	Aye Nay Abstain Absent
Albanese	<input checked="" type="checkbox"/> _____
Barr	<input checked="" type="checkbox"/> _____
Hund	<input checked="" type="checkbox"/> _____
Mazzarella	<input checked="" type="checkbox"/> _____
O'Connor	<input checked="" type="checkbox"/> _____
Toal	<input checked="" type="checkbox"/> _____
Smith	<input checked="" type="checkbox"/> _____

State of New Jersey )  
County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the forgoing is a true and correct copy of Resolution 15-84 as adopted at a Special Meeting of the Township Council held on July 6, 2015.

  
Edith L. Merkel, Township Clerk  
Date: July 6, 2015