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September 1, 2015

VIA REGULAR MAIL

Hon. Menelaos W. Toskos, J.S.C.
Superior Court of New Jersey
Bergen County Courthouse
10 Main Street, 4th Floor
Hackensack, N.J. 07601

Hon. William C. Meehan, J.S.C. (ret. t/a recall)
Superior Court of New Jersey
Bergen County Courthouse
10 Main Street, 3d Floor
Hackensack, N.J. 07601

**Re: In the Matter of the Township of Northvale,
Docket No. BER-L-6287-15
(and all other pending declaratory judgment actions filed
in Bergen County pursuant to In re Adoption of N.J.A.C.
5:96, 221 N.J. 1 (2015))**

Dear Judges Toskos and Meehan:

I am writing on behalf of the New Jersey Builders Association (NJBA). The NJBA was a party to the proceedings before the Supreme Court in *In re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015)*, and was identified by the Supreme Court as an interested party entitled to receive notice of all municipal declaratory judgment actions and to participate in those proceedings. *Id.* at 23.

The NJBA has intervened in a small number of declaratory judgment cases for the purpose of addressing the initial issues raised by those cases, such as the timetable for the submission of municipal housing plans; the process for determining municipal housing obligations and standards for municipal compliance; the opportunity for NJBA and builders to intervene; and the terms upon which immunity orders may be issued. As part of this intervention, NJBA also seeks to address the broader methodological issues

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and questions, such as the methodology for determining municipal fair share housing obligations and the standards for municipal compliance.

The NJBA anticipates that these issues will be resolved in a small number of leading cases throughout the State, or potentially through consolidation of all outstanding declaratory judgment actions on a vicinage-by-vicinage basis. At this point, however, the NJBA does not know which cases will be the leading cases, or how the courts intend to resolve these larger methodological questions. It is becoming readily apparent to NJBA that these issues may well not be resolved by the cases in which it has already intervened.

As the leading cases in your vicinage emerge or are selected, or as the court determines how to address these issues, the NJBA respectfully requests that the Court notify the NJBA so that it can determine whether to seek leave to intervene in any such proceedings for this limited purpose. The NJBA will, of course, comply with any timetables fixed by the Court; it has no desire to delay the Court's resolution of these issues.

The NJBA has an important perspective to offer the Court in these cases because its members are the actual builders of low and moderate income housing, whether constructed entirely through the efforts of private enterprise or partially with the assistance of public subsidies. In practice, the *Mt. Laurel* doctrine results in the construction of substantial amounts of low and moderate income housing only if it creates "realistic opportunities" for construction of low and moderate income housing by members of the NJBA.

On behalf of the NJBA, I thank the Court for its time and attention in this matter.

Respectfully submitted,



Stephen Eisdorfer, Esq.

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