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IN THE MATTER OF THE TOWNSHIP OF  
MULLICA, a municipal corporation of the  
State of New Jersey, and its Third Round  
Affordable Housing Element and Fair Share  
Plan.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ATLANTIC COUNTY

DOCKET NO.: ATL-L-\_\_\_\_-15

(Mt. Laurel)

*Civil Action*

**ORDER GRANTING TEMPORARY  
IMMUNITY FROM MOUNT LAUREL  
LAWSUITS**

**THIS MATTER** having been opened to the Court by Tracy A. Siebold, Esquire of Nehmad Perillo & Davis, PC, attorneys for the Petitioner, Township of Mullica (the “Township”) and the Township of Mullica Planning Board (“Planning Board” and together with the Township, “Mullica”), having adopted a Housing Element and Fair Share Plan (“HE&FSP”) for the Third Round; and the Township having endorsed, and voluntarily filed said HE&FSP with the Council on Affordable Housing (“COAH”), and Mullica having secured protection from expensive exclusionary zoning litigation by timely filing its HE&FSP with COAH (N.J.S.A. 52:27D-309 and -316); and the Supreme Court and Legislature having encouraged municipalities to comply with their affordable housing obligations voluntarily (Mount Laurel II), N.J.S.A. 52:27D-303); and Mullica having exhibited a desire to comply with its affordable housing obligation voluntarily; and COAH having failed to adopt Third Round regulations by the

October 22, 2014 deadline the Supreme Court established (In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 221 N.J. 1 (2015)); 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 City having committed itself to comply voluntarily by filing a duly adopted plan with COAH and through other actions; and the City wishing to complete the process of complying voluntarily in court; and Mount Laurel jurisprudence having clearly established the principle that voluntary compliance is preferable to exclusionary zoning litigation; and it appearing that temporary immunity should be granted (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 City'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 with proper notification being given to all necessary and interested parties, and with good cause appearing;

It is on this \_\_\_\_ day of \_\_\_\_\_ 2015, **ORDERED** as follows:

1. The Court hereby enters this protective order granting the Township of Mullica, the governing body of the Township of Mullica, and the Planning Board of the Township of Mullica temporary immunity from the filing and serving of any Mount Laurel lawsuits.

2. The protections from Mount Laurel lawsuits created by 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 COAH, 221 N.J. 1 (2015).

3. The protections from Mount Laurel lawsuits created by this order shall remain in effect for five (5) months from the date the Township receives an Order establishing the presumptive constitutional housing obligations for Mullica and identifying the permissible means which the Township'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.

4. Counsel for the Township shall provide all parties on the service list with a copy of this Order within seven (7) days of receipt of same.

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NELSON C. JOHNSON, J.S.C.