

Attorney ID: 012731981
Our File No.: C22172(SAK)

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Attorneys for Township of Chatham

In the Matter of the Township of Chatham for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan	: : SUPERIOR COURT OF NEW JERSEY : LAW DIVISION: MORRIS COUNTY : Docket No.: MRS-L-1659-15 : : (Mount Laurel) : <u>Civil Action</u> : : CERTIFICATION OF FRANCIS J. : BANISCH, III, IN SUPPORT OF : THE TOWNSHIP OF CHATHAM'S : <u>MOTION FOR IMMUNITY</u>
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I, Francis J. Banisch, III, of full age, hereby certify as follows:

1. I am a licensed professional planner in the State of New Jersey and a member of the American Institute of Certified Planners.

2. A true copy of my Curriculum Vitae is attached as Exhibit A.

3. I am the consulting Professional Planner to the Township of Chatham ("Township") and in that capacity I am

advising the Township regarding meeting its Third Round fair share obligation.

4. I make this Certification in support of the Township's motion for immunity.

5. The Township elected to participate in the Council on Affordable Housing ("COAH") process under the Fair Share Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"), and submitted a Housing Element and Fair Share Plan dated April 1995 along with its petition for Second Round Substantive Certification on May 19, 1995.

6. COAH calculated the Township's fair share obligation for the period 1987 to 1999 at 89 affordable units, including a 6 unit indigenous need and an 83-unit new construction obligation.

7. 75 affordable housing units, previously developed at Chatham Glen, were deducted from the 89-unit total, leaving a fair share of 14 then to be satisfied.

8. The Township's 1995 Housing Element and Fair Share Plan proposed satisfying the remaining obligation of 14 units through a combination of methods that included rehabilitation of the 6 indigenous need units, credits for 2 alternative living arrangements (group homes), each with 3 bedrooms eligible for credit, and a Regional Contribution Agreement, which was then permitted by the COAH rules.

9. As a result of the mechanisms included in the 1995 Housing Element and Fair Share Plan, the Township achieved constitutional compliance with a plan that included a Regional Contribution Agreement for all 18 units and an acknowledgement that another 6 additional credits could be sought for the group homes.

10. COAH memorialized the sufficiency of the Township's 1995 Housing Element and Fair Share Plan when it granted the Township Second Round Substantive Certification and protection from builder remedy lawsuits on March 5, 1997.

11. The Township's Second Round Substantive Certification was extended on May 11, 2005 through December 20, 2005, and by COAH to December 31, 2008 for all municipalities.

12. My office prepared affordable housing compliance plans for the Township in 2005 and 2008 to address the changing Third Round obligations identified by COAH.

13. The substantive rules for COAH's Third Round were adopted on December 20, 2004, covering the period from January 2000 through December 2014.

14. Table 1 in the 2005 Housing Element and Fair Share Plan identified the Township's Third Round Affordable Housing Obligation at 79 units as follows:

	MPO	Locally-derived
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Total Recalculated Second Round (Appendix C - COAH Third Round rules)	52	52
Growth Share	18	27
Rehabilitation Obligation	0	0
Total Third Round Obligation	70	79

15. The substantive rules for COAH's Third Round recalculated the Township's Second Round obligation, downward from 89 to 52. Thus, when combined with the growth share estimate of 27 additional units, a combined total of 79 affordable units would be required for all three rounds - 10 units less than the prior round calculation of 89.

16. After the Appellate Division found flaws in the original (2004) Third Round regulations, COAH recalculated each municipality's prior round obligation, remaining rehabilitation component and anticipated residential and non-residential growth through the year 2018, to generate new affordable housing obligations for each municipality.

17. The Township again prepared and adopted a Housing Element and Fair Share Plan in 2008 to address these revised rules. Table 1 from the 2008 Housing Element and Fair Share Plan identified the Township's Third Round fair share obligation, as well as the cumulative obligation for all prior rounds, as follows:

Prior round new construction obligation (1987-1999)		83
Number of affordable units based upon projected residential growth to Year 2018	87.4	
Number of affordable units based upon projected non-residential growth to Year 2018	22.3	
Total 3 rd round new construction obligation to Year 2018		109.7
Rehabilitation obligation: 2004-2018		19
Total Fair Share Obligation		212*

* Rounded.

18. Combining the 83-unit recalculated prior round obligation with the 110 unit growth share obligation and a 19-unit rehabilitation need resulted in a 212-unit affordable housing obligation through 2018.

19. The Township's 2008 Housing Element and Fair Share Plan was submitted to COAH with a petition for Third Round Substantive Certification on December 31, 2008 and the application was deemed complete on May 18, 2009.

20. To date, the Township has provided 75 affordable for-sale units, 6 group home bedrooms and 8 units rehabilitated through a Regional Contribution Agreement. With rental bonus credits assigned to the group homes, 6 bonus credits were included, for a total of 95 affordable units/credits:

Chatham Glen (for sale)	75
RCA	8
Group Homes	6
+ rental bonuses	6
Units and credits	95

21. The Township's 2008 Housing Element and Fair Share Plan (Table 5 reproduced below) applied 83 of the Township's COAH recognized units and credits to fully address the 83-unit recalculated prior round obligation and carried forward the 12 group home credits to be applied toward the very low income requirement:

<i>Affordable Housing Types</i>	<i>#</i>	<i>Rentals</i>	<i>Very Low Income</i>	<i>Portion of Need Addressed</i>
Accessory apartments	11	11		Growth share
Market to affordable-existing apartments	5	5		Growth share
Group homes*	19	19	19	Growth share
Extended Affordability Controls	75			Growth share
Rehabilitation program	19			Rehabilitation
Rental bonuses (27 maximum)	TB D			Growth share
<i>Total affordable units and credits</i>	12 9	35	19	

*Includes 12 units/credits from prior COAH certification; Township will provide residential lot for new group home

22. The Township's 2008 Housing Element and Fair Share Plan, as submitted to COAH for certification, fully met and exceeded the prior round obligation with a 19-unit rehabilitation

program in cooperation with the County of Morris, an 11-unit accessory apartment program, a market-to-affordable program to deed restrict 5 apartments to be affordable by low and moderate income households, 19 group home bedrooms, and the extension of expiring controls on the 75 affordable units at Chatham Glen.

23. I hereby certify that the foregoing statements are true to the best of my knowledge and belief. I understand that if any of the foregoing statements are found to be willfully false, I am subject to punishment.

Francis J. Banisch, III

Dated: July 1, 2015

Exhibit A

B A N I S C H
A S S O C I A T E S , I N C .
Planning and Design

FRANCIS J. BANISCH, III

EDUCATION

Bachelor of Arts, Princeton University, 1972
Major: Architecture and Urban Planning

PROFESSIONAL EXPERIENCE

1976 - Present **President, Banisch Associates, Inc.**
Community Planning and Design Consultants
Flemington, New Jersey

Senior associate and principal of planning and design firm specializing in visioning, resource management plans, redevelopment plans, historic preservation, growth management programs, master plan and zoning ordinance preparation, municipal planning, subdivision and site plan review and preparation, environmental analysis and conceptual design plans.

Professional responsibilities, in addition to the services listed above, have included administering several low- and moderate-income housing programs, including rehabilitation programs and Regional Contribution Agreements (RCA's), representing municipalities and clients in Superior Court and administrative agency actions, serving as Court-appointed master in Mt. Laurel litigation, preparing contracts and work programs, and supervising planning, drafting, technical and clerical personnel.

1972-1976 **Associate, Alvin E. Gershen Associates**
Trenton, New Jersey

Assisted municipal clients with Master Plan studies, continuing planning programs, ordinance preparation, housing programs and numerous special studies, development reviews including planned developments and major commercial projects.

Assisted private clients in preparation of conceptual subdivision and site plan designs and testimony before review agencies.

PROFESSIONAL AFFILIATIONS AND LICENSURE

- Member, American Institute of Certified Planners
- Licensed Professional Planner in New Jersey since 1975 (#1686)
- Member, American Planning Association
- Member, New Jersey Association of Consulting Planners

PROFESSIONAL ACTIVITIES AND ACHIEVEMENTS

- Member, Board of Counselors, New Jersey Planning Officials
- Member, Municipal Land Use Law Technical Review Committee (NJ League of Municipalities)
- Member, State Planning Commission Rural Policy Technical Advisory Committee
- Regular lecturer for the New Jersey Planning Officials, New Jersey League of Municipalities and the New Jersey Chapter of the American Planning Association
- Adjunct professor for Rutgers University, Office of Continuing Education
- Mayor's designee on Municipal Council in development of Pinelands Comprehensive Management Plan
- Member, Cultural Resource Management Plan Advisory Committee to Pinelands Commission

PUBLICATIONS

- Fair Share Methodologies: Improved Approaches to Need Calculation and Distribution by Frank Banisch and Mary Winder, New Jersey Federation of Planning Officials Special Report.
- The New Jersey Municipal Master Plan Manual, Chapter 20, "The Conservation Plan Element", New Jersey Planning Officials, 1998.
- "Coastal Storm Hazard Mitigation Strategies for Strathmere and Whale Beach, Upper Township, Cape May County, NJ", by Francis J. Banisch III, PP/AICP and Peter J. Pizor, Ph.D., June 1986.

BROADCAST

- "Innovations" (PBS television) highlighting early use of Geographic Information Systems (GIS) to assist in developing local planning and policy recommendations.

SUPERIOR COURT CASES

- On behalf of the Township of Pemberton, Burlington County, in the matter of State of New Jersey v. Pemberton Township
- On behalf of the Township of Holmdel, Monmouth County, in the matter of Support Development Corporation v. Holmdel Township, et al.
- On behalf of the Township of Bedminster, Somerset County, in the matter of F. M. Kirby v. Bedminster Township
- On behalf of the Randolph Investors, in the matter of Randolph Investors v. Readington Township
- On behalf of Pemberton Borough, Burlington County, in the matter of G & F Assoc. v. Pemberton Borough
- On behalf of the Township of Mt. Olive, Morris County, in the matter of Interverse Enterprises, Inc. v. Mt. Olive Township
- On behalf of the Township of Readington, Hunterdon County, in the matters of Lackland and Lackland, et al v. Readington Township, et als, Illva Saronno Corp. v. Readington Township, and Toll Brothers, Inc. v. Readington Township, et als.
- On behalf of the Township of Washington, Morris County, in the matter of Fellows et al v. Washington Township, et al.
- On behalf of the Township of Washington, Morris County, in the matter of Rand, et al v. Washington Township, et al.
- On behalf of East Amwell Township, Hunterdon County, in the matter of NJ Farm Bureau, et al v. East Amwell Township, et al.
- On behalf of East Brunswick Township, Middlesex County, in the matter of Bailes, et al v. East Brunswick Township, et al.
- On behalf of Bernards Township, Somerset County, in the matter of Millington Quarry, Inc., v. Bernards Township

COURT APPOINTED MASTER

- EAI Investments, LLC v. Pohatcong Planning Board, et al. (appointment by Honorable Roger Mahon, JSC)
- Alpha 519, LLC v. Borough of Alpha, et al. (appointment by Honorable Roger Mahon, JSC)
- Woolwich Adult, LLC v. Woolwich Township, et al. (appointment by Honorable James Rafferty, JSC)
- "In the Matter of the Application of the Township of Delanco" (appointment by Honorable John Sweeney, JSC)
- "In the Matter of Borough of Gibbsboro" (appointment by Honorable Allen Vogelsson, PJCh)
- "In the Matter of Borough of Shrewsbury" (appointment by Honorable Robert Coogan, JSC)
- "In the Matter of Township of Wall" (appointment by Honorable Robert Coogan, JSC)

- “In the Matter of D’Anastasio Corporation v. Borough of Woodstown” (appointment by Honorable James Rafferty, JSC)
- “In the Matter of the Application of the Borough of North Caldwell, County of Essex” (appointment by Honorable Francine Schott, JSC)
- “In the Matter of the Application of the Borough of Monmouth Beach” (appointment by Honorable Robert Coogan, JSC)
- “In the Matter of the Application of the Township of Hopewell” (appointment by Honorable James Rafferty, PJGE)
- “In the matter of Application of the Township of Chesterfield” (appointment by Honorable Ronald Bookbinder, AJSC)
- “In the matter of the Application of the Township of Oldmans” (appointment by Honorable James Rafferty, PJGE)
- “In the matter of the Application of the Township of Pittsgrove” (appointment by Honorable James Rafferty, PJGE)
- BVB II Associates v. Township of Ocean, et al; Avalon Bay Communities, Inc. v. Township of Ocean, et al, Roosevelt Properties, LLC v. Township of Ocean, et al (appointment by Honorable Paul Kapalko, JSC)
- “In the matter of Application of the Township of Mantua” (appointment by Honorable Anne McDowell, PJGE)