

## LEGAL NOTICE – TOWNSHIP OF BARNEGAT

### Notice of Declaratory Action and Motion before the Superior Court of New Jersey for Temporary Immunity from Mount Laurel Lawsuits

**NOTICE** is hereby given that, on July 2, 2015, the Township of Barnegat filed a Declaratory Complaint in Ocean County Superior Court, Law Division, in response to the Supreme Court's recent decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (hereinafter "In re COAH"). Through its Declaratory Complaint, the Township is asking the Court to:

1. Enter an Order providing the Township five (5) months to file a Housing Element and Fair Share Plan with the Court, commencing on the date the Court determines the criteria and guidelines with which the Township must comply;
2. Enter an Order granting the Township and its Planning Board temporary immunity from Mount Laurel lawsuits commencing from June 8, 2015 and remaining in effect for five (5) months from the date the Court determines the criteria and guidelines with which the Township must comply; or, if the Court declines to commence the start date as the date the Court makes this determination, for five (5) months from the date the Court deems appropriate;
3. Enter an Order extending immunity provided that the Township adopts, endorses, and files a Round 3 Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") prior to the expiration of the initial five-month period;
4. To review and approve the Township's Fair Share Plan, as may be supplemented and amended during the aforementioned five-month period and thereafter;
5. To enter subsequent orders periodically extending immunity until such time as the Court enters a Judgment of Compliance and Repose formally approving the Township's Fair Share Plan;
6. To approve the Township's Spending Plan in its current form and as may be revised;
7. To determine that the Township has committed to expend trust fund monies within four years of receipt in accordance with N.J.S.A. 52:27D-329.2 and 329.3; and
8. To grant such other relief as the Court deems just and equitable.

A "Mount Laurel lawsuit" is brought pursuant to Supreme Court opinions commonly referred to as "Mount Laurel I" and "Mount Laurel II" claiming that a municipality has used its zoning powers to exclude low and moderate income households in violation of the requirements of these landmark decisions, the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.) and other applicable laws. A "temporary immunity" order protects a municipality and its planning board from Mount Laurel lawsuits. A Judgment of Compliance and Repose is an order formally approving a municipality's Housing Element and Fair Share Plan which provides the municipality ten years of protection from Mount Laurel suits. Any response to the Township's Declaratory Action must be filed in accordance with the Rules of Court. Any interested party seeking to participate in this action should consider consulting legal counsel and should be guided by these Rules.

**NOTICE** is further given that, on July 2, 2015, the Township also filed a Motion For Temporary Immunity which will be considered by the Honorable Mark A. Troncone, J.S.C. on Friday, September 11, 2015 at 9:00 a.m. Through this Motion, the Township seeks an Order (1) granting the Township and its Planning Board Temporary Immunity From Mount Laurel Lawsuits ; and (2) providing the Township five (5) months to file a Fair Share Plan with the Court, commencing from the date the Court determines the criteria and guidelines with which the Township must comply; or, if the Court declines to commence the start date as the date the Court makes this determination, for five months from the date the Court deems appropriate.

Any public comments opposing the Township's Motion for Temporary Immunity must be submitted in writing no later than 5:00 p.m. on Friday, September 4, 2015. Such written comments shall set forth any reason(s) why the Court should not enter an Order granting the Township and its Planning Board immunity from Mount Laurel lawsuits. Be advised that the Court could decline to consider any written public comments not filed by the deadline, and will use its discretion on the probative weight to be given any filing. Public comments shall be served upon:

**Honorable Mark A. Troncone, J.S.C.**  
Superior Court of NJ, Ocean County  
100 Hooper Avenue, Courtroom 8  
Toms River, NJ 08753

**David Breeden, Administrator**  
Township of Barnegat  
900 West Bay Avenue  
Barnegat, NJ 08005

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Toms River, NJ 08754

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Clarke, Caton, Hintz  
100 Barrack Street  
Trenton, NJ 08608-2008

A copy of the Township's Declaratory Action and Motion for Temporary Immunity with supporting documentation are available for public inspection at the office of the Township Clerk, Township of Barnegat, 900 West Bay Avenue, Barnegat, New Jersey during regular business hours.