

EYE ON THE CLIFFS

"Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." John F. Kennedy

October 12, 2019

Electronic Edition

Carin Geiger, President

Debbie Fehre, Acting Vice President/Secretary

Lynn Liaskos, Treasurer



AFFORDABLE HOUSING TRIAL BEGINS

Englewood Cliffs' lawsuit opposing Normandy's high-density/affordable housing plan for 800 Sylvan Avenue commenced Friday, October 11th at the Bergen County Courthouse in Hackensack. New Jersey Superior Court Judge Christine Farrington presided.

The initial phase of the trial will determine whether the Borough Plan for 77 affordable housing unit credits at Hudson Terrace satisfies the Borough's current affordable housing obligation. In a developed community such as Englewood Cliffs, this number is computed based on the availability of vacant and developable land. This phase of the trial will also determine if the Borough Plan adequately creates future opportunities for up to 507 additional affordable housing units.

Judge Farrington had ruled last year that the total current and future affordable housing obligation of the Borough is 584 units. The Court-appointed Special Master in August 2019 released a report allocating the 584 required units into a current affordable housing obligation of 143 units, and a future need of 441 units. The Fair Share Housing Center and Normandy assert that the current obligation exceeds 200 units. The major differences in the calculation of the current affordable housing obligations result from conflicting analyses about how much vacant and developable land exists in the Borough and what is an appropriate density for each identified site. There is also a legal question about whether the Borough should be penalized for its past failure to have rezoned the current site of LG USA at 111 Sylvan Avenue and the Lighthouse site near Sage Road for affordable housing.

The trial began yesterday with the Borough presenting its case that the Borough Plan at Hudson Terrace meets its 77 unit current affordable housing obligation. In days to come, the Fair Share Housing Center and Normandy (800 Sylvan Avenue LLC) will present to the Court

their cases to justify larger numbers of units. The Court's Special Master will also testify about the plan she developed, and her recommended numbers.

The Court will then rule on the number of affordable housing units required in the Borough, and whether the Borough Plan is constitutionally compliant. If the Court finds that the Borough is not compliant, the trial will proceed to a remediation stage. In the remediation stage, the Court will determine an appropriate builder's remedy for Normandy. Currently, Normandy is proposing just over 600 residential units on its property with a 20 % affordable housing component. In its August 27th Order, the Court has already found deficiencies in the Borough's Plan, and commented on the exclusion of the 800 Sylvan Avenue property "*despite the fact that 800 Sylvan appears to be the only remaining location in the Borough available for significant Affordable Housing development.*" The Court will also order the steps necessary for the Borough to become constitutionally compliant with its fair share affordable housing obligations, and will set forth a timetable for achieving compliance.

The scheduled trial dates are October 18, 22, 23, 24, 29 and November 1, 6, and 7.

AFFORDABLE HOUSING TRIAL DAY ONE:

At the outset of Friday's proceedings, Englewood Cliffs resident Hemant Mehta addressed the Court to defend his motion to intervene in the trial. The courtroom was filled with his supporters. After the Court denied his motion, stating that the motion was not timely, would delay of the trial, and that Mehta's interests are represented by the Borough, Mehta and most of his supporters left the courtroom. Few residents remained to observe the trial.

The trial began without opening statements; the Borough, the Fair Share Housing Center and Normandy (800 Sylvan Avenue) had already submitted briefs to the Court, which are posted in full at: <https://www.ecfrg.org>. The Borough's litigation attorney, Thomas Trautner, called the Borough's expert planner Michael Mistretta to the witness stand. Mistretta described Englewood Cliffs to the Court, and presented charts depicting population trends, changes in the number of private homes, and current land use. He explained in detail his calculation of the Borough's current affordable housing obligation and defended the sufficiency of the Borough's 77 credit Hudson Terrace Plan which includes the construction of a new Police Station and Community Center. Mistretta was then cross-examined by attorney Kevin Walsh of the Fair Share Housing Center.

The trial will continue at 9:30 a.m. on Friday, October 18. Walsh will continue his cross examination of Mistretta. Normandy's attorneys will then cross-examine Mistretta. The Borough will continue to present its case and call its other expert witnesses.