

BOROUGH OF CHATHAM SPENDING PLAN

May 27, 2022

INTRODUCTION

To comply with the March 10, 2015 Mt. Laurel IV decision, Chatham Borough petitioned the Superior Court on July 6, 2015, for a Declaratory Judgment and temporary immunity from builder's remedy suits. This action entered the Borough into the process of determining its affordable housing obligation and how it would be satisfied.

To avoid a lengthy trial on the Borough's affordable housing obligation, the Borough and FSHC came to terms in a 2016 Settlement Agreement and a 2021 First Amendment to the 2016 Settlement Agreement that set forth the Borough's affordable housing obligation and preliminary compliance plan. This Settlement Agreement was approved by the Honorable Michael C. Gaus, P.J. Cv. on September 21, 2021.

On September 2, 1998, COAH approved the Borough's mandatory development fee ordinance. The ordinance includes residential development fees in the amount of 1.5% of the equalized assessed value of residential development and nonresidential development fees in the amount of 2.5% of the equalized assessed value of nonresidential development.

As of May 27, 2022, Chatham collected a total of \$898,917 in development fees, payments in lieu of construction, interest, and other income. It has spent a total of \$373,756 leaving a balance of \$687,290. All development fees, payments in lieu of constructing affordable units on site, "other" income, and interest generated by the fees are deposited in one (1) separate interest-bearing account dedicated toward the

creation of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16, as described in the sections that follow.

This updated spending plan is submitted to the Superior Court of New Jersey for approval to expend Affordable Housing Trust Fund monies that will contribute to several affordable housing projects and programs. Additionally, the Borough will expend funds on affordability assistance, including expenditures to create very-low income units or to render existing units more affordable, and toward administrative expenses.

REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of Third Round Judgment of Repose, Chatham considered the following:

(a) Development fees: \$147,000

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL): \$0

The Borough does not anticipate receiving other payment-in-lieu of construction through the Third Round.

(c) Other funding sources: \$0

The Borough does not anticipate future funds from this category at this time. Funds from other sources, include, but are not limited to the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units. All monies in the Affordable Housing Trust fund are anticipated to come from development fees and interest.

(d) Projected interest: \$1,470

Based on interest earned in recent years and projected rates of development fee revenue, Chatham anticipates collecting \$1,470 in interest through 2025.

Table SP-1 indicates the anticipated revenue to be generated from development impact fees and interest. Chatham Borough projects a subtotal of \$148,470 to be collected between May 28, 2022 and December 31, 2025, including interest, to be used for affordable housing purposes. The total, after adding the money currently in the account, is projected to be \$835,760. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

Table SP-1: Source of Funds – Housing Trust Fund 2022 through 2025

Year Source of Funds	2022	2023	2024	2025	2022-2025 Total
Projected Residential Development	\$27.5k	\$27.5k	\$27.5k	\$27.5k	\$110k
Projected Non- Residential Development	\$9.25k	\$9.25k	\$9.25k	\$9.25k	\$37k
Interest	\$367	\$367	\$367	\$367	\$1,470
Total	\$37.1k	\$37.1k	\$37.1k	\$37.1k	\$148.5k

Projected residential and non-residential development fees are based on the average development fees collected on a yearly basis for the past 10 years. This estimate does not include affordable housing sites that will be producing affordable housing and may not be charged a residential development fee. Interest calculations are based on deposits, averaged and extrapolated through 2025.

ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Chatham Borough:

a) Collection of development fee revenues:

All collection of development fee revenues will be consistent with local regulations which follow COAH administrative models for both residential and non-residential developments and in accordance with N.J.S.A. 40:55D-8.1 through 8.7.

(b) Distribution of development fee revenues:

The governing body may hear and decide upon a request for development fee revenues for the purpose of creating affordable housing. The governing body reviews the request for consistency with the Spending Plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(c) Rehabilitation: \$0

Chatham Borough has a 0-unit rehabilitation obligation and therefore is not committing funds to a rehabilitation program at this time.

(d) Affordability Assistance (N.J.A.C. 5:93-8.16(c))

Chatham Borough is required to spend a minimum of 30 percent of development fee revenue to render affordable units more affordable and at least one-third of that amount must be dedicated to very low-income households or to create very low-income units (i.e. households with incomes less than 30 percent of the regional median income). The actual affordability assistance minimums should be calculated based on actual revenues.

Projected Minimum Affordability Assistance Requirement		
Actual Development Fees Collected through 5/27/22		\$898,917
Actual Interest earned through 5/27/22	+	\$8,990
Development Fees Projected 2022-2025	+	\$147,000
Interest Projected 2022-2025	+	\$1,470
Less Housing Activity Expenditures per N.J.A.C. 5:93-8.16(c) including new construction	-	\$0
Total	=	\$1,056,377
30 Percent Requirement	x 0.30 =	\$316,913
Less Affordability Assistance Expenditures through 4/30/21	-	\$0
Projected Minimum Affordability Assistance Requirement	=	\$316,913
Projected Minimum Very Low-Income Requirement	÷ 3 =	\$105,637

Based on fees and interest collected to date and projected revenues, Chatham Borough must dedicate at least \$316,913 from the affordable housing trust fund to render units more affordable, including \$105,637 to render units more affordable to households with income at 30 percent or less of median income by region. Please refer to the affordability assistance program manual provided as an appendix to the Spending Plan for details of how the affordability assistance funds

are anticipated to be used. It may use a variety of vehicles to do this including, but not limited to the following:

- Emergency Repair Program;
- Down-payment assistance;
- Rental assistance;
- Security deposit assistance;
- Moving expenses;
- Low interest loans;
- Assistance with homeowners' association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units or creating new very-low income units, etc.

The Borough will work with its affordable housing providers and administrator to expand outreach to ensure the existing and new households of very-low-, low- and moderate-income programs can take advantage of affordability assistance programs. Additionally, the Borough will work with affordable housing providers to convert low income units to very low-income units.

(e) Administrative Expenses (N.J.A.C. 5:93-8.16(e))

Chatham Borough may use Affordable Housing Trust Fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

Projected Administrative Expenses		
Actual Development Fees Collected through 4/30/22		\$898,917
Actual Interest Collected through 4/30/22	+	\$8,990
Payments-in-lieu of construction and other deposits through 7/17/2008	+	\$0.00
Development Fees Projected 2022-2025	+	\$147,000
Interest Projected 2022-2025	+	\$1,470
Total	=	\$1,056,377
20 Percent Maximum Permitted Administrative Expenses	x 0.20 =	\$211,275
Less Administrative Expenditures through April 2022	–	\$211,275
Projected Allowed Administrative Expenditures	=	\$0

Chatham Borough projects that \$0 may be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Borough Attorney, Engineer, and Planner fees related to plan preparation and implementation, and to obtaining Judgment of Compliance and Repose;
- Administration fees related to rehabilitation, extension of expiring controls, affordability assistance programs, and municipally-sponsored construction programs;
- Affirmative Marketing;
- Income qualification of households; and
- Administration of Borough's Affordable Housing Units.

EXPENDITURE SCHEDULE

Chatham Borough intends to use Affordable Housing Trust Fund revenues for its municipally-sponsored construction program, affordability assistance including the creation of very-low income units and making existing units more affordable, and administrations expenses. Additionally, this expenditure schedule meets the requirement that trust fund revenues are expended within four years of their collection.

Projected Expenditure Schedule 2022 Through 2025

Program	Units	2022	2023	2024	2025	Total
100% AH Project Bowers Lane		\$103.7k	\$415.1k	\$k	\$k	\$518.8k
Affordability Assistance		\$79.2k	\$79.2k	\$79.2k	\$79.2k	\$316.9k
Administration		\$0	\$0	\$0	\$0	\$0
TOTAL		\$182.9k	\$494.3k	\$79.2k	\$79.2k	\$835.7k

EXCESS OR SHORTFALL OF FUNDS

In the event that a shortfall of anticipated revenues occurs, Chatham will bond to satisfy the gap in funding. In the event that funds exceed projected expenditures, the Borough will devote any excess funds on additional affordability assistance above the 30 percent minimum requirement. Alternatively, the Borough reserves the opportunity to amend its Housing Element and Fair Share Plan, as well as this Spending Plan, to create additional affordable housing opportunities.

SUMMARY

The Borough of Chatham intends to spend Affordable Housing Trust Fund revenues pursuant to the extant regulations governing such funds and consistent with the housing programs outlined in the 2022 Third Round Housing Plan Element and Fair Share Plan. Chatham had a balance of \$687,290 as of May 27, 2022 and anticipates an additional \$148,470 in revenues before the expiration of a Third Round Judgment of Repose for a total of \$835,760. The Borough may expend up to \$0 of Trust Funds on administrative costs during the period of repose. At this time, the Borough estimates that approximately \$316,913 of Trust Funds will be spent to create very low-income units, and to make units more affordable.

Spending Plan Summary	
Revenues	
Balance as of April 30, 2022	\$687,290
Projected Revenue from 2022 through 2025	
1. Development Fees	+ \$147,000
2. Payments-In-Lieu of Construction	+ \$0.00
3. Other Funds	+ \$0.00
Interest	+ \$1,470
Total Projected Balance	= \$835,760
Expenditures	
Affordability Assistance	- \$316,913
New Construction	- \$518,847
Administration	- \$0
Total Projected Expenditures	= \$835,760
Remaining Balance	= \$0.00

CHATHAM BOROUGH AFFORDABLE HOUSING TRUST FUND

APPENDIX TO SPENDING PLAN: MAY 2022

**FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM
AND RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM**

FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM

Down Payment Loan Program

The Borough may offer a Down Payment Assistance Loan program to qualified purchasers of households earning 80% or less of median income of the housing region. To be eligible for the loan, the qualified Buyer must be able to supply 3% of the down payment with the Buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the 3% down payment amount, but may be used to fund additional closing costs. The loan amount may be made up to ten percent (10%) of the purchase price.

The Borough must approve the Buyer's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the Buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The Buyer must sign a mortgage and mortgage note to the Borough.

Payment of Closing Costs

Eligible Buyers may receive payment of closing costs, i.e., title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowners insurance, recording fees and other necessary closing expenses to third parties, not to exceed one thousand five hundred dollars (\$1,500.) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit. Utility deposits, i.e., gas and electric, paid to utility companies are to be returned to the Borough Affordable Housing Trust Fund upon resale of the unit. The buyer will execute documents required to secure payment to Chatham Borough.

Payment of Lender Fees

Eligible Buyers may receive payment of lender fees, i.e., mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses,

not to exceed one thousand five hundred dollars (\$1,500.) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3000) per unit.

Administration

Chatham's Affordability Assistance Programs is managed by the Chatham Borough Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. The following administrative process is applied to the For-Sale Unit Affordability Assistance Program:

1. The Buyer contacts the Administrative Agent to confirm that he/she wants to receive Down Payment Assistance.
2. The Buyer must present proof to the Administrative Agent that he/she is qualified for Affordable Housing in the Chatham Borough.
3. Buyer must produce an exact copy of a signed Real Estate Contract for an affordable housing unit in Chatham Borough, which indicates clearly the full amount of the purchase price. Buyer must provide the Administrative Agent with the full name, address, phone number, and fax number of the Buyer's Attorney or Settlement Agent so that the Attorney or Settlement Agent can review and approve any and all documents required for the loan.
4. The Administrative Agent contacts the Realtor or Developer for confirmation of the sale of the unit, and the name of the Attorney handling the sale for the Developer at closing.
5. The amount of the Down Payment Assistance loan is verified (not to exceed ten percent of the Purchase Price) so that a Mortgage Note, Mortgage, and Repayment Agreement can be prepared by the Administrative Agent.
6. The amount of the Down Payment Assistance must be disclosed to the Lender, so that the Lender can accurately prepare the First Mortgage documents. The Buyer must give a copy of the First Mortgage Commitment to the Administrative Agent upon receipt of same, so that the Lender can receive full information about the Down Payment Assistance Loan, which shall constitute a Second Mortgage on the premises. The Lender must approve the secondary financing. The Chatham Borough Affordable Housing Attorney will contact the Lender once the Affordable Housing Attorney has a copy of the First Mortgage Commitment.
7. The Chatham Borough Finance Department will generate the necessary forms and obtain Chatham Borough Council approval for it to issue an Affordable Housing Trust Fund check payable to the Seller's Attorney or Settlement Agent, so that the Down

Payment Assistance check can be deposited into the Seller's Attorney Trust Account or Settlement Agent Trust Account pending Closing of Title. The letter and check to the Seller's Attorney or Settlement Agent shall state that the deposit money must be returned to the Chatham Borough if the closing is canceled, or if the sale is declared null and void. If there is a Closing of Title, the Down Payment Assistance money shall be released to the Seller. This money shall be shown on the Closing Statement as a deposit, with credit given at closing to the Buyer. The Buyer must fully execute the Mortgage Note, Mortgage, and Repayment Agreement at the Closing of Title before any money is released.

8. The Seller's Attorney or Settlement Agent shall verify that the Mortgage Note, Mortgage, and Repayment Agreement have been properly executed, and shall file the original Mortgage with the County Clerk to protect the Chatham Borough Second Mortgage on the property and return the Filed Mortgage to Affordable Housing Attorney along with the original Mortgage Note and Repayment Agreement.

RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

Rental Assistance

Chatham Borough may offer a Rental Assistance Program that is managed by the Administrative Agent. Eligible recipients of the program are renters who qualify for a very-low, low- or moderate-income rental unit. The following assistance is available to very-low, low- and moderate-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars (\$1,500.) per family.
2. Rent subsidies based upon size of household and number of bedrooms in apartment
 - a) One-bedroom, low-income unit -\$55 per month subsidy.
 - b) One-bedroom, moderate-income unit -\$100 per month subsidy.
 - c) Two-bedroom, low-income unit -\$100 per month subsidy.
 - d) Two-bedroom, moderate-income unit -\$200 per month subsidy.
 - e) Three-bedroom, low-income unit --\$150 per month subsidy.
 - f) Three-bedroom, moderate-income units --\$250 per month subsidy

The following assistance is available to very low-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars (\$1,500) per household.
2. Rental security deposit -Deposits paid to landlord to be returned to the Borough's Affordable Housing Trust Fund upon termination of tenancy.
3. Rent subsidies based upon size of household and number of bedrooms in apartment
 - a) One-bedroom -\$75 per month subsidy.
 - b) Two-bedroom -\$125 per month subsidy.
 - c) Three-bedroom --\$175 per month subsidy,

Rental assistance does not need to be repaid by the tenant. The amount of the rental supplement will be calculated initially based on the tenant's actual income and the rent level of the affordable units to help bring the total shelter costs down to 30% of the total household income or lower, if warranted by the particular household circumstances. If the tenant wishes to renew the lease, he/she must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, he/she may renew the lease and stay in the unit, but will no longer receive rental assistance.

Administration

Chatham Borough's Rental Unit Affordability Assistance Programs will be administered by the Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. After an applicant is income qualified by the Administrative Agent pursuant to the Uniform Housing Affordability Controls, the applicant will complete and provide an affordability assistance application to the Administrative Agent.

For qualified and approved payment of moving expense, the Administrative Agent will follow the Borough purchasing and requisition process for generating a check that is made out to the applicant. Once the check is produced, the Administrative Agent provides it to the applicant.

For qualified and approved payment of utility deposit, the Administrative Agent follows the Borough purchasing and requisition process for generating a check that is made out to the utility company. Once the check is produced, the Administrative Agent provides it to the applicant for payment to the utility company.

The affordability assistance recipient will sign a contract with Chatham Borough which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within Chatham Borough and provided to all administrative agents of affordable units within Chatham Borough and advertised on the Borough's website.

An income eligible occupant or applicant for an affordable unit within Borough may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.