

Affordable Housing

New Jersey's Requirements & What they Mean for Madison Borough

December 6, 2016 Joint Borough Council
& Planning Board Meeting

Susan Blickstein, PP, AICP



Michael Sullivan, ASLA, AICP

Elizabeth McManus, PP, AICP, LEED AP

Clarke Caton Hintz



Planning Team

Clarke Caton Hintz

Michael F. Sullivan, ASLA, AICP
Affordable Housing, Principal-in-charge

Elizabeth McManus, PP, AICP, LEED AP
Affordable Housing, Project Manager

Susan G. Blickstein

Susan Blickstein AICP/PP, PhD
Madison Borough Planner

Clarke Caton Hintz

Over 30 years of Municipal Planning & Design Experience

- Planning
- Architecture
- Landscape Architecture
- Community Design
- Historic Preservation
- GIS / Graphic Design

Extensive Affordable Housing Expertise

- Municipal Planning
- Special Master to the Court



New Jersey System

Participating Municipalities: Voluntary Process with Incentives

- Housing Plan approval:
 - COAH “Substantive Certification” or
 - Court “Judgment of Repose”
- Immunity from litigation for 10 years

Non-participating Municipalities: Risk of “Builder’s Remedy”

- Developer awarded higher density housing with affordable housing via litigation

Historical Context

1975 Mount Laurel I

Each municipality has a constitutional obligation to provide affordable housing

1983 Mount Laurel II

Obligations assigned.
Court approves Housing Plans

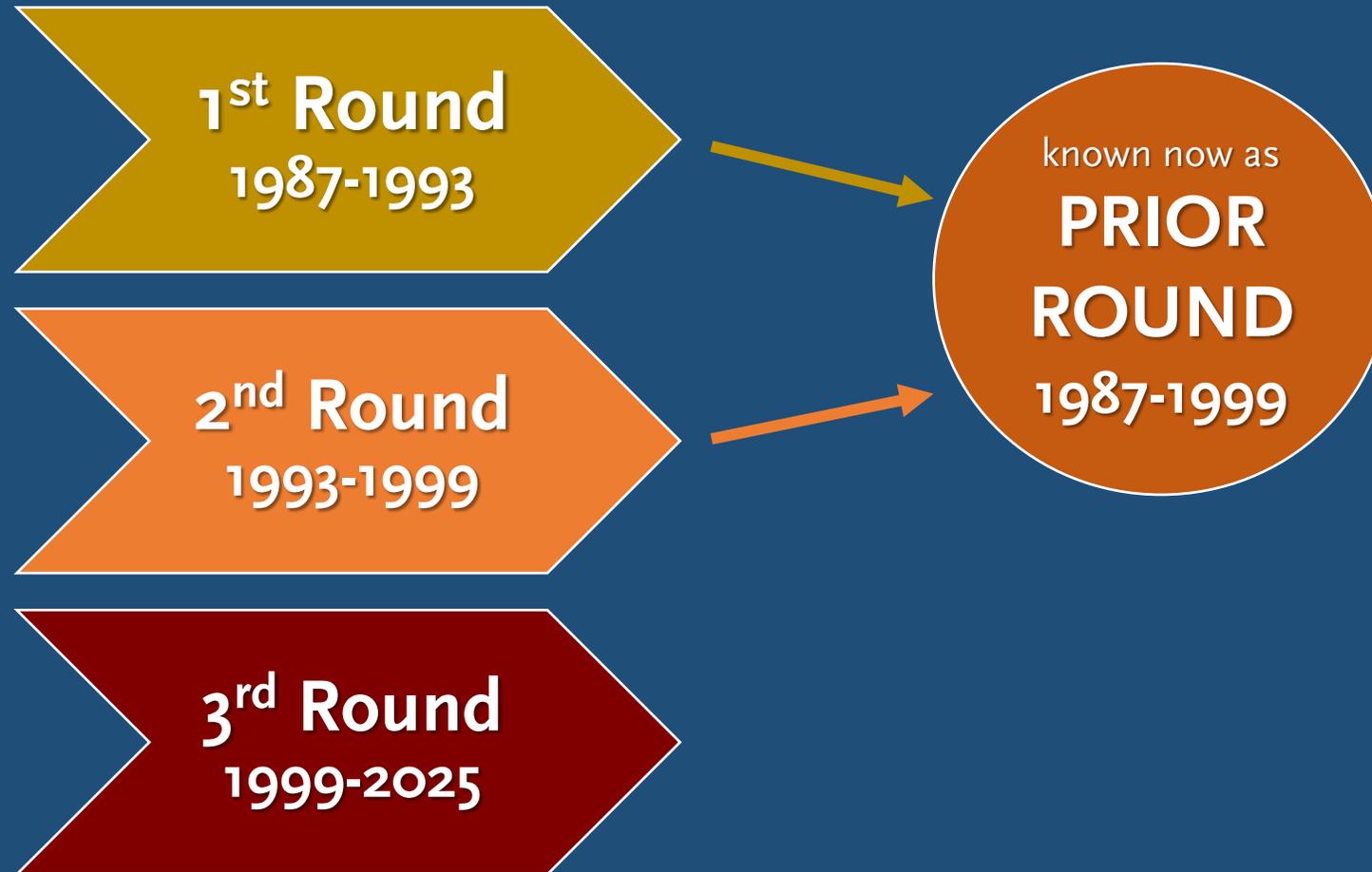
1985 Fair Housing Act

COAH created to administer FHA

1986 -2014 COAH Rule Making

COAH administered the FHA and promulgated first, second and third round rules

COAH Rulemaking “Rounds”



Third Round History

2004 - 2013

3rd Round Rules

“Growth share” rules are adopted twice and overturned

2013

Supreme Court Decision

Invalidated methodology
Ordered new rules to be adopted

2014

COAH Fails to Adopt

COAH fails to adopt 3rd round rules

2014

FSHC Motion

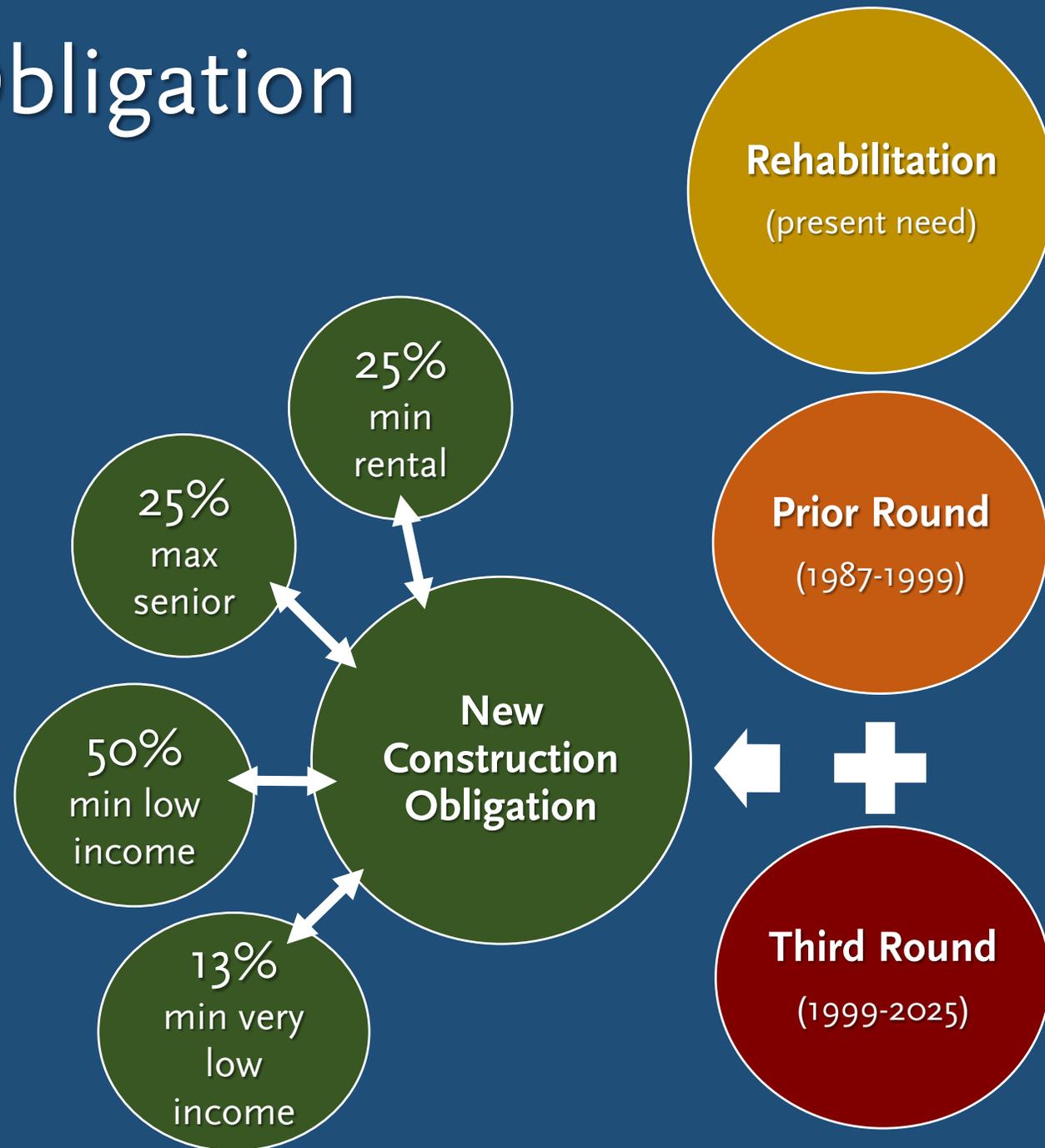
Fair Share Housing Center (FSHC) files motion to compel the State to adopt rules

2015

Mount Laurel IV

Supreme Court transfers approval of housing plans to Courts

The Obligation



The Obligation

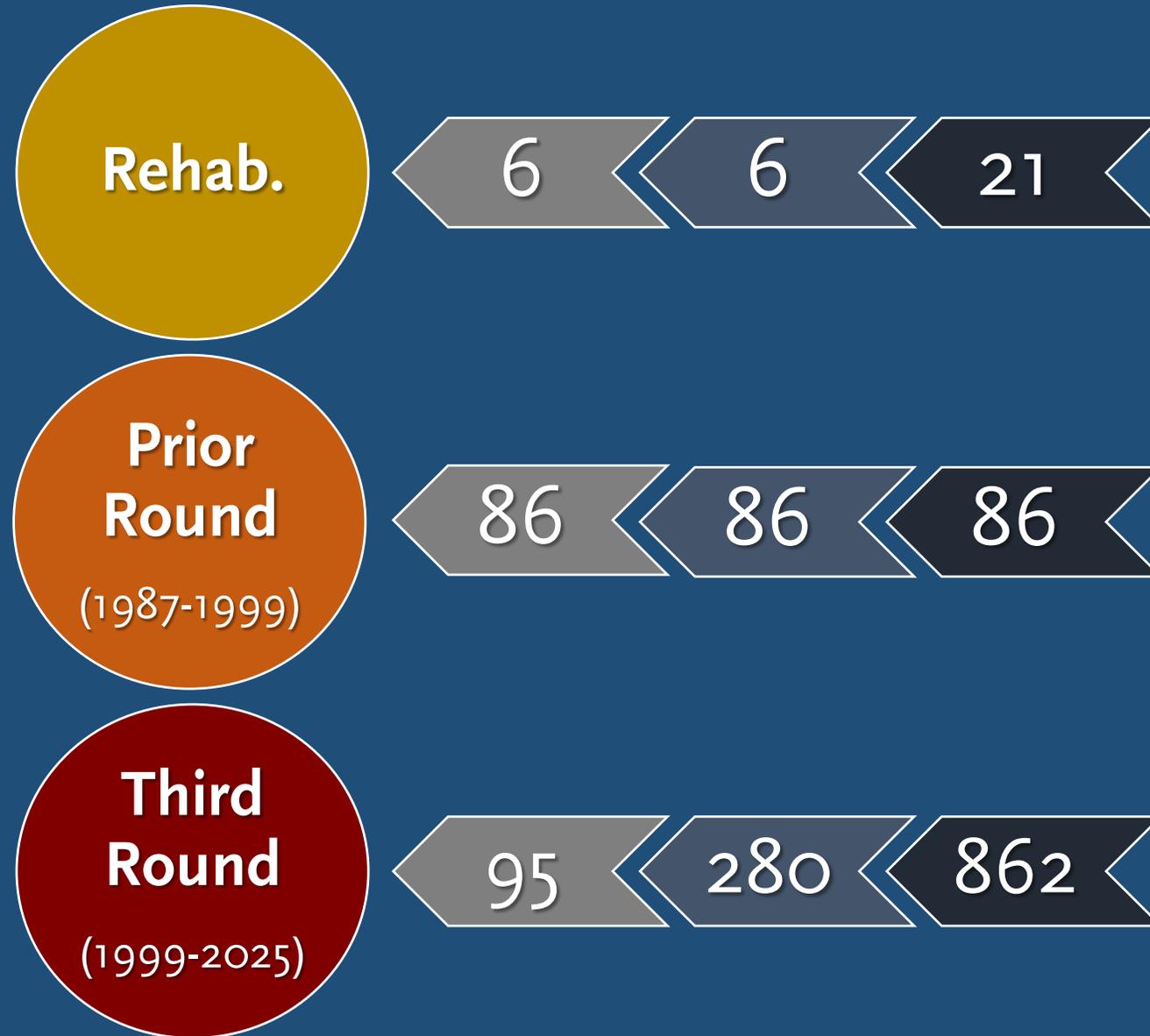
Three Calculations

Econsult

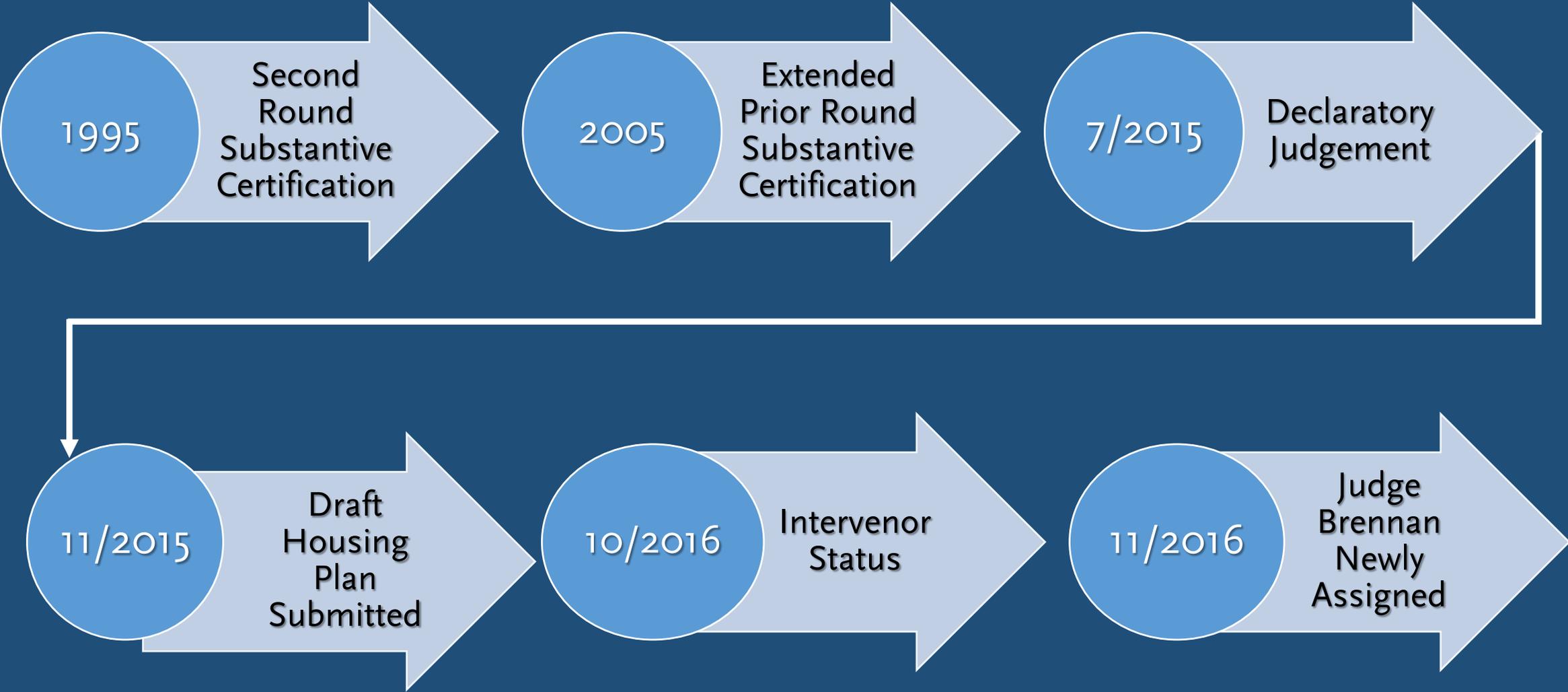
Reading

FSHC

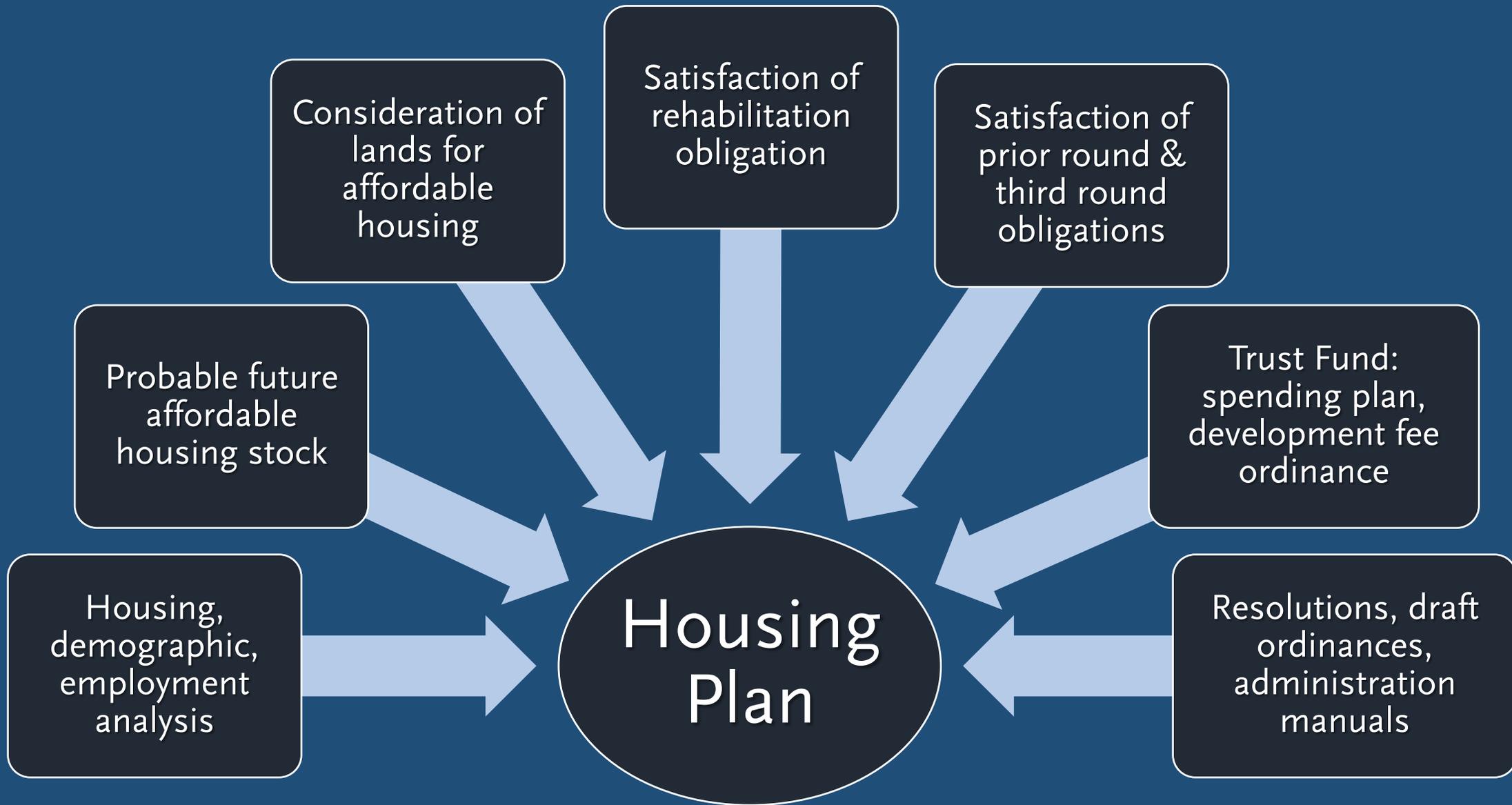
Final
determination
by Court or
Settlement
with FSHC



Madison's History & Status



Housing Element/Fair Share Plan



Satisfying the Rehabilitation Obligation

Confirm or Adjust 21 Unit Obligation

- Structural Conditions Survey

Rehabilitation Program

- Morris County Housing Rehabilitation Program
- Municipal Rehabilitation Program

Satisfying the Prior Round Obligation

86 Units: Satisfied with 174 Existing Affordable Units & Bonuses

- Madison Housing Authority
- Madison Affordable Housing Corporation

Verification Ongoing

- Construction
- Administration

Third Round Vacant Land Adjustment

Realistic Development Potential (RDP)

- Anticipated to be 95-120 units
- Theoretical exercise
- Identify “vacant and developable” lands
- Calculate potential capacity for affordable housing

Unmet Need

- Anticipated to be maximum of 742-767 units
- Difference between RDP and third round obligation
- Must create opportunities where they arise

Satisfying the Third Round RDP

Utilize Prior Round Surplus

- Madison Housing Authority
- Madison Affordable Housing Corporation
- Other

Address any Deficit with New Sites

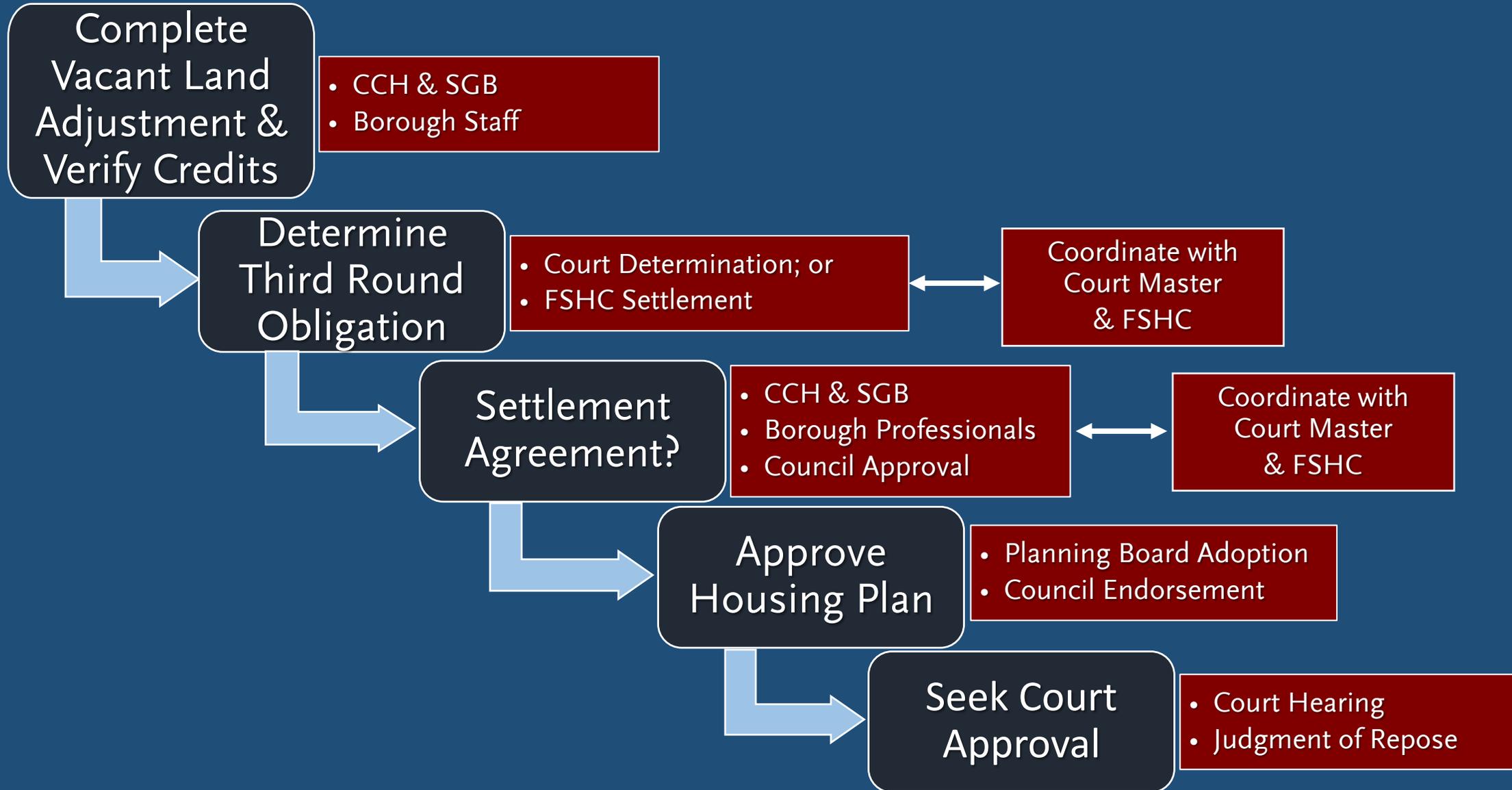
- Analysis ongoing

Satisfying the Third Round Unmet Need

Create Affordable Housing Opportunities

- Most common: overlay inclusionary housing
- Alternatives: by-right zoning, accessory apartments

Work Plan



Court Approval of Housing Plan

Court Hearing on Adopted Housing Plan

- Public comment
- Does it meet applicable rules?

Judgment of Repose

- Compliance finding
- Ongoing monitoring
- Immunity from builder's remedy litigation
- Implementation of Housing Plan

Questions?

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