

Egg Harbor Township

Resolution No. 96

2025

Resolution Committing to Fourth Round Present and Prospective Need Affordable Housing Obligations

WHEREAS, the Township of Egg Harbor (hereinafter the “Township” or Egg Harbor”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 2, 2015, the Township of Egg Harbor filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Township’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 164 and a Prospective Need (New Construction) Obligation of 148; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

WHEREAS, the Township accepts the DCA’s Fourth Round Present Need (Rehabilitation) calculation of 164, but does not accept the DCA’s calculation of the Township’s **Land Capacity Allocation Factor**, which is a factor that is part of the DCA’s calculation of the Township’s Fourth Round Prospective Need (New Construction) calculation of 148; and

WHEREAS, as to the **Land Capacity Allocation Factor**, the Township notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 25, 2024, instead of by October 20, 2024; and

WHEREAS, the Township further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language: "The land areas identified in this dataset are based on ... the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. **It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.**" (emphasis added); and

WHEREAS, the Township maintains that the areas the DCA identified as developable are indeed overinclusive and, consequently, the Township's Affordable Housing Planner, has prepared an expert report, attached hereto as **Exhibit A**; and

WHEREAS, correcting the Land Capacity Allocation Factor results in the reduction of Egg Harbor Township's Fourth Round Prospective Need (New Construction) Obligation from 148 to 130; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the Township's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Township specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning document; and

WHEREAS, in addition to the foregoing, the Township specifically reserves all rights to revoke or amend this resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Township reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in

the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the New Jersey Institute of Local Government Attorneys (NJILGA) has expressed its support for proposed legislation (hereinafter "NJILGA Legislation") that would reduce the Township's Fourth Round Prospective Need (New Construction) Obligation to from 148 to 51 and would give the Township "90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number"; and

WHEREAS, Egg Harbor Township supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Program, shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of AOC Directive #14-24 and the Township reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Township seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Township Committee finds that it is in the best interest of the Township to declare its obligations in accordance with this Resolution; and

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Egg Harbor, Atlantic County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Township Committee hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 164 and the Fourth Round Prospective Need (New Construction) Obligation of 130 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

- a) The right to adjust the Township’s fair share obligations based on a Structural Conditions Survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and
- b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and
- c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Township’s fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court’s (AOC) Directive #14-24 issued on December 19, 2024, the Township Committee hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution, a Case Information Statement (Civil CIS), and supporting expert report, in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Township’s Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This resolution shall take effect immediately, according to law.

Dated: January 22, 2025

Eileen M. Tedesco, RMC

Eileen M. Tedesco, RMC
Township Clerk

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Committee of the Township of Egg Harbor Township at a regular meeting held on the 22nd day of January 2025, a quorum being present and voting in the majority.

Eileen M. Tedesco, RMC

Eileen M. Tedesco, Township Clerk

Attachment

EXHIBIT A

BLOCK	LOT	PROPERTY CLASS	ADDRESS	OWNER NAME	OWNER ADDRESS	OWNER ADDRESS CITY, STATE	OWNER ADDRESS ZIP CODE	ZONE	PARCEL AREA ACRES	DEVELOPABLE LAND AREA ACRES (WEIGHTED)	COMMENTS
605	8	1	141 Summit Avenue	Pauline Kara	139 Summit Avenue	EHT, NJ	08234	M-1	3.31	0.53	Portion of rear of lot (residence in adj. mun.)
605	18	15C	12 Risley Avenue	ACUA	1701 Absecon Boulevard	Atlantic City, NJ	08401	M-1	5.30	4.37	Public property
703	1	15C	1224 Doughty Road	ACUA	1701 Absecon Boulevard	Atlantic City, NJ	08401	M-1	180.78	3.49	Public property; landfill
704	7	15C	Deiliah Road	ACUA	1701 Absecon Boulevard	Atlantic City, NJ	08401	M-1	5.87	0.54	Public property
704	12	1	6728 Deiliah Road	CLB, LLC	625 W. Shiller Street	Egg Harbor City, NJ	08215	M-1	2.00	1.94	Site Plan approved for site for a commercial building
901	48	2	26 Atlantic Avenue	Bruce Ritchie	28 Atlantic Avenue	EHT, NJ	08234	M-1	3.44	0.33	Portion of private residential lot
1029	5.02	15C	1431 Doughty Road	NJ Transit Corp.	One Penn Plaza East	Newark, NJ	07105	M-1	0.24	0.24	Portion of public property
1036	1 & 2	1	101 Woodland Avenue	A.E. Stone, Inc.	PO Box 68	Bridgeton, NJ	08302	M-1	0.72	0.72	Portion of buffer at existing asphalt facility
1223	5.6 & 8	1	6606 Black Horse Pike	Leigh at EHT, LLC	PO Box 673	Manasquan, NJ	08736	HB	41.78	20.67	Site Plan approved; includes 8 affordable units (Leigh @ EHT, LLC)
1301	35 & 36	1	6320 Black Horse Pike	Amerco Real Estate Company	2727 N. Central Avenue	Phoenix, AZ	85004	HB	5.90	1.32	Site plan approved and construction on-going for U-Haul
1303	49	1	6418 Black Horse Pike	All Zone Holdings, LLC	2049 Ocean Heights Avenue	EHT, NJ	08234	HB	3.25	1.42	Site Plan pending approval for commercial building
1305	7	1	2509 Spruce Avenue	Leigh at EHT, LLC	PO Box 673	Manasquan, NJ	08736	RG-4	6.62	2.97	Portion of the Leigh @ EHT, LLC for open space
1602	103	15C	Scarborough Drive	EHT	3515 Bangaintown Road	EHT, NJ	08234	RG-2	6.47	0.96	Open space lot; ROSI
2005	2	1	Black Horse Pike	Cardiff Center LLC	420 Boulevard Suite 201	Mountain Lakes, NJ	07046	RCD	3.84	0.87	Stormwater basin for adjacent Cardiff Center
2101	35, 36, 37	1	6735 Washington Avenue	6735-6739 Washington Avenue, LLC	2 English Lane	EHT, NJ	08234	M-1	6.13	8.69	Site is the location of American Demolition and under construction for facility. Not vacant.
2610	14 & 14.01	15D	6075 West Jersey Avenue & 4001 English Creek Avenue	Diocese of Camden & Church of St. K. Drexel	631 Market Street	Camden, NJ	08102	RG-3	25.37	8.01	Church
3201	34	15C	Tony Canale Park	EHT	3515 Bangaintown Road	EHT, NJ	08234	AH	91.73	20.18	Green Acres funded open space; ROSI (Key Map Sheet 9)
3201	49	15C	5033 English Creek Avenue	Atlantic County Fire Training Center	1333 Atlantic Avenue	Atlantic City, NJ	08401	NB	23.94	1.83	Public property; County Fire Training Facility
3318	4	1	Violet Drive	Village Grande English Mill	1 Village Grande Road	EHT, NJ	08234	RG-1	2.96	1.06	Village Grande Stormwater / Open Space
3322	1	1	Lily Road	Village Grande English Mill	1 Village Grande Road	EHT, NJ	08234	RG-1	2.76	0.15	Village Grande Stormwater / Open Space
3323	105	1	21 High School Drive	Village Grande English Mill	1 Village Grande Road	EHT, NJ	08234	RG-1	5.57	1.88	Village Grande Stormwater / Open Space
3324	1	1	Primrose Circle	Village Grande English Mill	1 Village Grande Road	EHT, NJ	08234	RG-1	14.97	3.36	Village Grande Stormwater / Open Space
3326	1	1	Bluebell Drive	Village Grande English Mill	1 Village Grande Road	EHT, NJ	08234	RG-1	21.98	0.34	Village Grande Stormwater / Open Space
5610	16	2	12 Sagemore Court	Samuel & Barbara Carelli	12 Sagemore Court Road	EHT, NJ	08234	R-3	4.55	1.67	Existing residential lot
5610	17 & plo	1	3521 Bangaintown Road	EHT	3515 Bangaintown Road	EHT, NJ	08234	R-3	2.00	1.35	Portion of Municipal Building property
5610	24	1	Bartlett Boulevard	Sagemore HOA	PO Box 4579, Dept. 319	Houston, TX	77210-4579	R-3	21.10	15.69	Stormwater basin for development

BLOCK	LOT	PROPERTY CLASS	ADDRESS	OWNER NAME	OWNER ADDRESS	OWNER ADDRESS CITY, STATE	OWNER ADDRESS ZIP CODE	ZONE	PARCEL AREA ACRES	DEVELOPABLE LAND AREA ACRES (WEIGHTED)	COMMENTS
5611	25	1	Bartlett Boulevard	Sagemore HOA	65 Challenger Road, #320	Ridgefield Park, NJ	07660	R-3	1.11	0.79	Basin lot for development
5701	91	1	Frambss Avenue	National Salvage, LLC	28 S. Mt. Airy Avenue		08234	RG-1	20.70	0.29	Vacant / Salvage Yard
5701	98	15C	16 S. Mt. Airy	ACUA	PO Box 996	Pleasantville, NJ	08232	RG-1	4.88	0.35	Golf Course / Landfill
5813	27	15D	554 Zion Road	Honey Brook Bible Fellowship	117 Bewis Mill Road		08234	RG-1	1.85	0.50	Church
5817	23	15C	Diamond Drive	EHT	3515 Bargaintown Road		08234	RG-1	0.77	0.41	Basin
5926	30	15C	Diamond Drive	EHT	3515 Bargaintown Road		08234	RG-1	0.74	0.38	Basin
6101	16,32	1	Hartford Drive	Arturo & Marlene Barrera	30 Hartford Drive		08234	R-2	15.24	15.24	Basin, Forest Preservation Area
6201	6	15C	31 S. Mt. Airy Avenue	ACUA	PO Box 996	Pleasantville, NJ	08232	RP	4.79	0.41	Golf Course / Landfill
6201	7	15C	41 S. Mt. Airy Avenue	ACUA	PO Box 996	Pleasantville, NJ	08232	RP	7.37	0.22	Golf Course / Landfill
6201	64	15C	3024 Ocean Heights Avenue	ACUA	PO Box 996	Pleasantville, NJ	08232	RP	81.97	0.55	Golf Course / Landfill
6401	4	15D	4004 Ocean Heights Ave.	Friendship Bible Protestant Church	4004 Ocean Heights Avenue		08234	NB	2.32	0.25	Ex. Church, rear of property
6601	36,54, 36,63-36,67, 36,69, 36,76-36,79, 36,82, 36,83, 36,86-36,89, 36,91	1	144 Laquinta Drive; 145 Laquinta Drive; 149 Laquinta Drive; 151 Laquinta Drive; 153 Laquinta Drive; 155 Laquinta Drive; 162-170 Laquinta Drive; 174 Laquinta Drive; 202 Doral Court; 203 Doral Court	Various owners	144 Laquinta Drive; 145 Laquinta Drive; 149 Laquinta Drive; 151 Laquinta Drive; 153 Laquinta Drive; 155 Laquinta Drive; 162-170 Laquinta Drive; 174 Laquinta Drive; 202 Doral Court; 203 Doral Court	EHT, NJ	08234	R-2	6.20	5.60	Existing single-family homes constructed in Harbor Pines

TOTAL DEVELOPABLE LAND PER DCA REPORT (ACRES)	1,043.11
TOTAL DEVELOPABLE LAND TO BE REMOVED (ACRES)	129.57
TOTAL DEVELOPABLE LAND REMAINING AFTER REMOVING ABOVE LISTED PARCELS (ACRES)	913.54

Existing Region 1 Developable Land	Proposed Region 1 Developable Land	NRV Factor	Income Capacity Factor	Avg Allocation Factor	Regional Prospective Need
13,431	12,517.46	9.19%	6.49%	7.81%	1,889
Existing Dev. Land (Acres)	Existing Land Capacity	NRV Factor	Income Capacity Factor	Avg Allocation Factor	Existing Obligation
1,043.11	7.77%	9.19%	6.49%	7.81%	148
Proposed Dev. Land (Acres)	Proposed Land Capacity	NRV Factor	Income Capacity Factor	Avg Allocation Factor	Proposed Obligation
913.54	6.80%	9.19%	6.49%	6.84%	130

Egg Harbor Township, Atlantic County Developable Land per DCA

