

RESOLUTION NO. 2025-44-A

OFFERED BY: Lenoy

SECONDED BY: DeBiase

**RESOLUTION COMMITTING CARLSTADT TO DEPARTMENT OF COMMUNITY
AFFAIRS' FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND
PROSPECTIVE NEED NUMBERS**

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, as required by the Amended FHA, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA and calculated the Borough of Carlstadt's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 units and a Prospective Need or New Construction Obligation of 486 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "all parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, based on the foregoing, the Borough of Carlstadt has determined to accept the DCA calculations of the Borough of Carlstadt's fair share obligations and commits to its fair share of 0 units present need and 486 units prospective need subject to any vacant land and/or durational adjustments it may seek as part of the Housing Element and Fair Share Plan the Borough subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Borough of Carlstadt reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough of Carlstadt also reserves the right to adjust its position in the event of any rulings in the *Montvale* case (MER-L-1778-24) or any other legal action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, a significant part of the Borough of Carlstadt is within the zoning jurisdiction of the New Jersey Sports and Exposition Authority ("NJSEA"). The law does not permit the Borough of Carlstadt to authorize any use within the area under NJSEA jurisdiction. As a result, the Borough has no control over what occurs within the boundaries of the NJSEA and should not be based on actions taken by the independent NJSEA; and

WHEREAS, the state of facts described above demonstrate that the Amended FHA's assignment of an obligation to Carlstadt based on available land over which Carlstadt has no control fails to have a rational basis and thus violates the New Jersey constitution; and

WHEREAS, the Amended FHA does not take the above state of facts into account in its formulas thus inequitably distorting the obligations of the Borough of Carlstadt beyond its fair share; and

WHEREAS, in light of the foregoing recitals, the Borough of Carlstadt reserves the right to seek relief from the effects of such distortion, including but not limited to taking into account the effect of that distortion on its realistic development potential, any vacant land adjustment and any obligation for any "unmet need"; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough of Carlstadt reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in light of the above, the Mayor and Council of the Borough of Carlstadt finds that it is in the best interest of the Borough of Carlstadt to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Courts issued Directive #14-24; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Amended FHA shall file a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner".

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt as follows:

1. All of the above recitals ("Whereas" clauses) are incorporated into the operative clauses of this Resolution.
2. The Borough of Carlstadt hereby commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 486 units described in this Resolution, subject to all reservations of rights set forth above.
3. The Borough of Carlstadt hereby directs its attorney to file a Declaratory Judgment Complaint in Bergen County within 48 hours after adoption of this resolution, attaching this resolution.
4. The Borough of Carlstadt directs the Borough Clerk to submit and/or file this Resolution with the Program or any other such entity as may be determined to be appropriate.
5. This Resolution shall take effect immediately.

DATED: January 30, 2025

APPROVED: Robert J. Zimmermann
ROBERT J. ZIMMERMANN, MAYOR

ATTEST: Claire Foy
CLAIRE FOY, BOROUGH CLERK

ROLL CALL VOTE				
COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
Stoltz				X
Lenoy	X			
Emerson	X			
Roseman				X
Fonseca	X			
DeBiase	X			

I hereby certify that the foregoing is a true copy adopted by the Borough Council of the Borough of Carlstadt, New Jersey on

January 30, 2025
Claire Foy
Claire Foy, Borough Clerk