

**BOROUGH OF CLOSTER  
RESOLUTION #2025-066  
JANUARY 22, 2025**

**COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE  
NEED AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, on March 20, 2024, Governor Phil. Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter “Amended FHA” or “Act”); and

**WHEREAS**, the Amended FHA requires the Department of Community Affairs (“DCA”) to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria on the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act; and

**WHEREAS**, the DCA Report calculates Closter’s Round 4 (2025-2035) fair share affordable obligations as follows: a Present Need (Rehabilitation) Obligation of 16 and a Prospective Need (New Construction) Obligation of 251; and

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

**WHEREAS**, the Amended FHA gives municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; and

**WHEREAS**, the Amended FHA further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing (“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**, Closter has accepted the Present Need (Rehabilitation) Obligation of 16 as reported by the DCA in its October 18, 2025 Report, subject to all reservations of rights as outlined herein; and

**WHEREAS**, Closter has exercised its right to demonstrate that the data, when correctly applied, supports a lower Round 4 Prospective Need obligation than that reported by the DCA on October 18, 2024; and

**WHEREAS**, more specifically, Closter maintains that its Round 4 prospective need number is 228 based upon its examination of the data used to calculate the **Land Capacity Allocation Factor**; and

**WHEREAS**, more specifically, the Land Capacity Factor is developable land, primarily taken from NDJEP mapping. DCA estimates approximately 11.372 acres of land that results in Closter’s Land Capacity of 0.57%; however, Closter notes the following, as outlined in the report of the Borough’s Caroline Reiter, PP, AICP (attached hereto as Exhibit A):

“The DCA identified about 11.372 acres of Land Capacity in Closter. T&M, along with Borough professionals, conducted a thorough review of this acreage and determined that six (6) of the properties included in the Land Capacity C did not represent a realistic potential for future development and should, therefore, be removed from the inventory. Removal of the six (6) lots results in the reduction of approximately 5.014 acres from the Borough’s Land Capacity inventory, and reduces Closter’s Land Capacity to about 6.357 acres. Reduction of the Land Capacity to 6.357 acres reduces the Land Capacity Factor to 0.32%, thereby resulting in the following allocation

**Borough of Closter  
Resolution #2025-066**

**January 22, 2025  
Page 2 of 5**

factors for Closter:

- **Equalized Nonresidential Valuation factor of 0.84%;**
- **Income Capacity factor of 1.30%; and**
- **Land Capacity factor of 0.32%.**

**The above three factors are then averaged to an Average Allocation factor of 0.82%, which, when applied to Region 1's total prospective need of 27,743 units, results in an alternate affordable housing for Closter of 228 units.**

Of the six (6) properties that were removed from the Land Capacity inventory, five (5) are Borough-owned recreation and open space properties, and one (1) lot is a House of Worship. The removed lots are as follows:

- Block 1002, Lot 17, which is included in the Borough's 2018 ROSI;
- Block 1205, Lot 3, which is included in the Borough's 2010 Open Space and Recreation Plan;
- Block 2102, Lot 37.07, which is included in the Borough's 2010 Open Space and Recreation Plan;
- Block 2212, Lot 14, which is included in the Borough's 2010 Open Space and Recreation Plan;
- Block 2304, Lot 11, which is included in the Borough's 2010 Open Space and Recreation Plan.
- Block 1810, Lot 1.01, which is owned by Temple Emanu-El of Closter, Inc., and is a House of Worship.

**WHEREAS**, Closter accepts the DCA's invitation to examine the parcels it considered developable for purposes of calculating the Land Capacity Allocation factor; and

**WHEREAS**, as a result of this examination, Closter has concluded based upon the report of its expert (Exhibit A), that the DCA's determination of lands that are developable is indeed over inclusive; and

**WHEREAS**, as documented in this expert report, only 6.357 acres are developable, not the 11.372 acres that the DCA used to craft the **Land Capacity Allocation Factor**; and

**WHEREAS**, correcting the allocation factors results in Closter's Round 4 Prospective Need Obligation being 228 rather than 251; and

**WHEREAS**, it is therefore important that Closter commit to the correct Round 4 prospective need obligation; and

**WHEREAS**, 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 Act; and

**WHEREAS**, Borough's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

**WHEREAS**, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

**WHEREAS**, for example, the New Jersey Institute of Local Government Attorneys (NJILGA) has expressed its support for proposed legislation (hereinafter "NJILGA Legislation") would reduce Closter's Round 4 Prospective Need and would give Closter "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**, Closter 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**, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-

24) (hereinafter "Montvale Litigation") challenging the Amended Fair Housing Act and the implementation of that Act for a number of reasons and ultimate outcome of the litigation is uncertain; and

**WHEREAS**, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

**WHEREAS**, the Borough specifically reserves the right to adjust those numbers based on one or any of the foregoing adjustments: 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); and/or 3) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, the Pinelands or Meadowlands regulations and planning document; and

**WHEREAS**, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations.

**WHEREAS**, in light of the above, Closter finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act. And

**WHEREAS**, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment action within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, the Borough of Closter seeks a certification of compliance with the Act and, therefore, directs its Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Closter, County of Bergen, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.
2. For the reasons set for the in this resolution and its attachments, Closter commits to a Round 4 Present Need (Rehabilitation) Obligation of 16 and a Round 4 Prospective Need (New Construction) obligation of 228, based upon the expert report, attached as Exhibit A to this Resolution, subject to all reservations of all rights, which specifically include, without limitation, the following:
  - a) The right to a vacant land adjustment, durational adjustments, a windshield survey, and all other applicable adjustments permitted in accordance with COAH regulations;
  - b) The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations;
  - c) The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;
  - d) The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or other litigation; and

**Borough of Closter  
Resolution #2025-066**


**January 22, 2025  
Page 4 of 5**

- e) The right to adjust its fair share obligations in the event of a third party challenge to the fair share obligations and Closter's response thereto.
- 3. Closter hereby directs its Counsel to file a declaratory judgment complaint in in the appropriate venue within 48 hours after adoption this resolution attaching this resolution.
- 4. Closter hereby authorizes its Clerk to submit a copy of the within resolution to the DCA via email to [lpmail@dca.nj.gov](mailto:lpmail@dca.nj.gov) and to mail a hard copy by certified mail to the DCA Office of Local Planning Services at P.O. Box 800, Trenton, New Jersey 08625-0800.
- 5. This resolution shall take effect immediately, according to law.

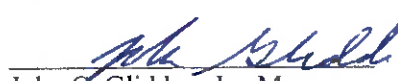
COUNCILMEMBER	MOTION	SECOND	YES	NO	ABSENT	ABSTAIN
Councilwoman Amitai	✓		✓			
Councilman Cho			✓			
Councilwoman Chung			✓			
Councilwoman Latner			✓			
Councilwoman Maroules		✓	✓			
Council President Yammarino			✓			

Adopted: January 22, 2025


ATTEST:

  
Mari J. Margiotta, Borough Clerk

APPROVED:

  
John C. Glidden, Jr., Mayor

Certified to be a true copy of Resolution adopted by the Mayor and Council of the Borough of Closter at the Regular Meeting held January 22, 2025.

  
Mari J. Margiotta, Borough Clerk

**EXHIBIT A**

CLOS-G2402  
January 22, 2025  
Page 1

*Via email*

**MEMORANDUM**

**To:** William J. Bailey, Esq., Closter Borough Attorney  
Daniel L. Steinhagen, Esq., Closter Planning Board Attorney

**From:** Caroline Reiter, P.P., A.I.C.P., Closter Affordable Housing Planner

**Date:** January 22, 2025

**Re:** Round 4 Affordable Housing Obligation

---

As requested, we are providing additional information on the Borough of Closter's Round 4 affordable housing obligation. New Jersey's Department of Community Affairs (DCA) calculated a Round 4 Prospective Need obligation of **251 units** for the Borough.

**Regional Obligation and Allocation Factors**

New Jersey affordable housing obligations are calculated on a regional level and then filtered down to the municipal level. There are six affordable housing regions in the state; the regions each include three or four counties. Region 1, in which Closter is located, includes Bergen, Hudson, Passaic and Sussex Counties.

The calculated affordable housing obligation, which is referred to as the prospective need obligation, for Region 1 is **27,743 units**. The New Jersey Fair Housing Act (FHA) Amendment that was the subject of the March 2025 affordable housing legislation known as P.L. 2024, c.2., details how the Department of Community Affairs (DCA) should calculate the regional obligation, and how that number is filtered into individual municipal affordable housing obligations.

The Fair Housing Act directs the DCA to allocate the regional need to each municipality in the region through the three allocation factors: Equalized Nonresidential Valuation factor, Income Capacity factor, and Land Capacity factor. After calculating each allocation factor, they are then averaged, and that average is applied to the regional prospective need to calculate a municipality's affordable housing obligation.

DCA calculated the following allocation factors for Closter:

- **Equalized Nonresidential Valuation factor of 0.84%;**
- **Income Capacity factor of 1.30%; and**
- **Land Capacity factor of 0.57%.**



YOUR GOALS. OUR MISSION.

**The above three factors are then averaged to an Average Allocation factor of 0.91%, which, when applied to Region 1's total prospective need of 27,743 units, results in DCA's calculated affordable housing for Closter of 251 units.**

A brief description of each of the three factors, and their applicability to Closter, follows.

Equalized Nonresidential Valuation: This is the municipal share of regional nonresidential valuation change from 1999-2023, based on data published by DCA's Division of Local Government Services. Closter's Tax Assessor has confirmed the data that DCA used to calculate Closter's Equalized Nonresidential Valuation factor of 0.84%.

Income Capacity: This is census data, and we have confirmed that the data used to calculate Closter's Income Capacity of 1.30% is correct.

Land Capacity Factor: This is developable land, primarily taken from NDJEP mapping. DCA estimates approximately 11.372 acres of land that results in Closter's Land Capacity of 0.57%.

The DCA identified about 11.372 acres of Land Capacity in Closter. T&M, along with Borough professionals, conducted a thorough review of this acreage and determined that six (6) of the properties included in the Land Capacity did not represent a realistic potential for future development and should, therefore, be removed from the inventory. Removal of the six (6) lots results in the reduction of approximately 5.014 acres from the Borough's Land Capacity inventory, and reduces Closter's Land Capacity to about 6.357 acres. Reduction of the Land Capacity to 6.357 acres reduces the Land Capacity Factor to 0.32%, thereby resulting in the following allocation factors for Closter:

- **Equalized Nonresidential Valuation factor of 0.84%;**
- **Income Capacity factor of 1.30%; and**
- **Land Capacity factor of 0.32%.**

**The above three factors are then averaged to an Average Allocation factor of 0.82%, which, when applied to Region 1's total prospective need of 27,743 units, results in an alternate affordable housing for Closter of 228 units.**

Of the six (6) properties that were removed from the Land Capacity inventory, five (5) are Borough-owned recreation and open space properties, and one (1) lot is a House of Worship. The removed lots are as follows:

- Block 1002, Lot 17, which is included in the Borough's 2018 ROSI;
- Block 1205, Lot 3, which is included in the Borough's 2010 Open Space and Recreation Plan;
- Block 2102, Lot 37.07, which is included in the Borough's 2010 Open Space and Recreation Plan;
- Block 2212, Lot 14, which is included in the Borough's 2010 Open Space and Recreation Plan;



YOUR GOALS. OUR MISSION.

- Block 2304, Lot 11, which is included in the Borough's 2010 Open Space and Recreation Plan.
- Block 1810, Lot 1.01, which is owned by Temple Emanu-El of Closter, Inc., and is a House of Worship.

### **Adoption of Binding Resolution**

Closter's Mayor and Council is tasked with adopting a binding resolution stipulating the Borough's affordable housing obligation. The FHA requires that this resolution be adopted no later than January 31, 2025. Failure to adopt the resolution can result in the Borough losing protection from exclusionary zoning litigation, i.e. builders' remedy lawsuits.

The Borough can either accept DCA's calculated obligation of 251 units or use the alternate obligation of 228 units in its binding resolution.

Finally, Closter will most likely utilize a Vacant Land Adjustment (VLA) to address its affordable housing obligation. This process involves a review of vacant land to calculate a Realistic Development Potential (RDP) and resulting Unmet Need.

### **Next Steps**

Once the Borough has adopted a binding resolution stipulating its affordable housing obligation, the Borough's Attorney will file the resolution with the Program and file an Action of Declaratory Judgment (DJ Action). Under the FHA Amendment, there is a "challenge" available. Interested parties can challenge a municipality's Round 4 affordable obligation through February 28, 2025.

We will then begin to prepare the Borough's Housing Element and Fair Share Plan, which the Planning Board must adopt at a public hearing with required notice no later than June 30, 2025. This process will include calculation of a Vacant Land Adjustment, with an associated Realistic Development Potential (RDP) and Unmet Need. The Housing Element and Fair Share Plan will also list the Borough's completed, planned and proposed affordable housing mechanisms to meet Closter's Prior Round, Round 3 and Round 4 affordable housing obligations.

Please let us know if there are further questions on Closter's Round 4 affordable housing obligation and the required timeline.

