

**BOROUGH OF FAIRVIEW
RESOLUTION**

**Date: January 21, 2025
Resolution 25-55**

Council Member	Moved	Seconded	Aye	Nay	No Vote	Abstain	Absent	Table
Martin			X					
Gomez							X	
Asto			X					
Lukin	X		X					
Burke			X					
Schmitt		X	X					
Berisha								

**COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT
NEED & PROSPECTIVE NEED NUMBERS AS MODIFIED**

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, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, 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

WHEREAS, the DCA Report calculates Fairview's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 313 units and a Prospective Need or New Construction Obligation of 97 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, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, 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 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, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and

WHEREAS, Fairview has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based on the foregoing, Fairview relies on the DCA calculations of Fairview’s fair share obligations as modified herein to account for Fairview’s review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by Fairview’s affordable housing planner, and Fairview seeks to commit to provide its fair share of 313 units present need and 94 units prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

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

WHEREAS, Fairview 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 such action that alters the deadlines and/or requirements of the Amended FHA; and

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

WHEREAS, in light of the above, the Governing Body finds that it is in the best interest of Fairview to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, the Governing Body finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Fairview to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025 by the Governing Body of the Borough of Fairview, County of Bergen, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Fairview hereby commits to [the DCA's Round 4 Present Need Obligation of 313 units][no modification of the DCA's Round 4 Present Need Obligation of 313 units to 313 units], and [the DCA's Round 4 Prospective Need Obligation of 94 units] [a modification of the DCA's Round 4 Prospective Need Obligation of 97 units to 94 units], as explained above and in the attached memo from Fairview's affordable housing planner, and subject to all reservations of rights set forth above
3. Fairview hereby directs its attorney to file a declaratory judgment complaint in Bergen County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit with the attached memo.
4. Fairview authorizes its Attorney to submit and/or file the within resolution with attached memo with the Program or any other such entity as may be determined to be appropriate.
5. This resolution shall take effect immediately, according to law.

ATTEST:

BOROUGH OF FAIRVIEW




 Diane T. Testa, Borough Administrator/Clerk



 Violetta Berisha, Mayor

I hereby certify that this is a true copy of the Resolution passed and adopted on first reading by the Fairview Borough Council at a meeting held on January 21, 2025



 Diane T. Testa, Borough Administrator/Clerk

BOROUGH OF FAIRVIEW
AFFORDABLE HOUSING REPORT



JANUARY 2025



PREPARED BY NEGLIA GROUP

INTRODUCTION

On March 20, 2024, Governor Murphy signed P.L.2024, c.2 into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the State's Fair Housing Act.

This law required the Department of Community Affairs (DCA) to perform a calculation of regional need and municipal present and prospective need obligations in accordance with the formulas established in the law. The six (6) Housing Regions were derived from the Legislation and used various factors to determine the present and prospective need for each municipality, the methodology will be discussed in more detail later in this report.

The Borough of Fairview is located in the southeastern portion of Bergen County, one of the four Counties that make up Housing Region 1. Housing Region 1 is comprised of Bergen, Hudson, Passaic, and Sussex Counties and is located in the northern most part of the State. Housing Region 1 has the largest combined population of the six (6) Housing Regions and the largest Present Need and Prospective Need in the State.

DCA provided the calculations and obligations for each municipality's present and prospective need in a non-binding document based strictly on data analysis. This report applies the methodology used by DCA and includes a narrower level of detail that may not have been available to the DCA during the initial calculations. Since, there is no standardized way for municipalities to report projects associated with the Third Round Housing Element, zoning board of adjustment and planning board decisions, or more "boots on the ground" specific information, municipalities are given the opportunity to provide this information when applying the DCA's methodology.

The DCA was limited to create a methodology that would be replicated throughout the state across many different municipalities. Using the methodology and the application of municipal specific information we believe there are certain calculations that shall be amended to provide a more accurate obligation for the Borough of Fairview.

DCA METHODOLOGY

Present Need is determined based on the number of existing housing units occupied by low- and moderate- income (LMI) households that are substandard and deficient. The Present Need for third round was determined by three factors: dwelling units lacking complete kitchen facilities, dwelling units lacking complete plumbing facilities, and overcrowded units. While these three metrics have data that tracks them independently, there is no measure accounting for overlap or for their impact to LMI households exclusively. This is the measure that Present Need seeks to address in the fourth round. It shall be noted that DCA strictly used census data estimates and the number is not based on actual units that have been inspected for the criteria.

We shall further address this obligation and strategy in the Fourth Round Housing Element. Therefore, it is determined that the present need obligation is as follows:

Present Need: 313

Prospective Need is determined based on three (3) equalized factors averaged into an average allocation factor for each municipality. The average allocation factor for each municipality was then multiplied by the regional prospective need to determine each municipality’s prospective need obligation. The three (3) factors used to determine the average allocation were Equalized Nonresidential Valuation (33.33%), Income Capacity Factor (33.33%), and the Land Capacity Factor (33.33%).

Equalized Nonresidential Valuation Factor: 0.94%

Equalized Nonresidential Valuation Factor is determined by the change in commercial and industrial property valuations from the beginning of the last round and the start of the current round. Therefore, the years being compared are 1999 and 2023, with data from the NJ Division of Local Government Services. For each year being compared, the commercial and industrial valuations were added together and then adjusted by that year’s State Equalization Table Average Ratios. These equalized nonresidential valuations were then used to calculate the change over the 24 years. Each municipality’s values were aggregated to the Housing Region level minus the valuation changes in Qualified Urban Aid municipalities. The Equalized Nonresidential Valuation Factor is the resulting percentage from dividing the municipality’s 24-year change in equalized nonresidential valuations by the adjusted aggregated Housing Region total. Municipalities that experienced increased commercial and industrial valuation received higher obligations according to DCA’s method. For the Borough of Fairview, the Equalized Nonresidential Valuation Factor is calculated to be 0.94%. A summary of the calculation is as follows.

$$0.94\% = \frac{(256,686,700 + 128,643,000) \cdot 0.8188 - (87,462,875 + 51,529,650) \cdot 0.8363}{32,549,128,394}$$

Where:

- 0.94%** = Equalized Nonresidential Valuation Factor for Fairview
- 0.8188** = 2023 State Equalization Table Average Ratio for Fairview
- 256,686,700** = 2023 Commercial Valuation for Fairview
- 128,643,000** = 2023 Industrial Valuation for Fairview
- 0.8363** = 1999 State Equalization Table Average Ratio for Fairview
- 87,462,875** = 1999 Commercial Valuation for Fairview
- 51,529,650** = 1999 Industrial Valuation for Fairview
- 32,549,128,394** = 1999 – 2023 Change in Equalized Nonresidential Valuation minus Qualified Urban Aid municipalities for Housing Region 1

Land Capacity Factor: 0.01%

The Land Capacity Factor was computed with 2024 MOD-IV Property Tax list from the Division of Taxation in the Department of Community Affairs. All parcels classified as vacant were included in the initial list. Next, DCA used the land use/land cover (LULC) data courtesy of the New Jersey Department of Environmental Protection and construction permit data from DCA. Using this data in ArcGIS, Land Capacity Factor is calculated by dividing the total developable land for each municipality by the total for the Housing Region excluding that area from the Qualified Urban Aid municipalities. For the Borough of Fairview, the Land Capacity Factor is calculated to be 0.01%. A summary of the calculation is as follows.

$$0.01\% = \frac{0.102}{1,980}$$


Where:


0.01% = Land Capacity Factor for Fairview

0.102 = Land Use/Land Cover Methodology Land Area in Acres for Fairview

1,980 = Total Developable Land in Acres for Housing Region 1

AMENDMENT - The DCA’s methodology was strictly a data analysis that was limited by the information DCA was able to use to determine the land capacity of each municipality. Since, there is not a standardized method for municipalities to report court settlements from the third round or decisions made by the zoning board of adjustment and planning board properties included in the land capacity may not actually be developable or have already been allocated for development. Upon reviewing the DCA’s Land Capacity layers on GIS we have determined a number of the sites are not developable.

NJ DCA Layer – Land Capacity Analysis for P.L. 2024, c.2 Parcels	
	<p>Block: 603 Lot: 24 Land Capacity Area: 0.099 Acres Property Owner: Grano Enterprises LLC Property Class: 1 Current Use: Construction Yard Notes: This lot is owned by Grano Enterprises and actively being used to store the construction vehicles for this company. There is restricted access onto the site and should not be include in the land capacity calculation since it is already in use.</p>

NJ DCA Layer – Land Capacity Analysis for P.L. 2024, c.2 Parcels	
	<p>Block: 603 Lot: 23 Land Capacity Area: 0.004 Acres Property Owner: Grano Enterprises LLC Property Class: 1 Current Use: Vacant land Notes: This lot is owned by Grano Enterprises and actively being used to store the construction vehicles for this company. There is restricted access onto the site and should not be include in the land capacity calculation since it is already in use.</p>

Therefore, we disagree with the Land Capacity factor due to the identified areas already in use by the property owner and cannot be used for development. Using the additional data from the Borough’s records we believe the following calculation is correct:

$$0.00\% = \frac{0.000}{1,980}$$

Where:

0.00% = Land Capacity Factor for Fairview

0.000 = Land Use/Land Cover Methodology Land Area in Acres for Fairview

1,980 = Total Developable Land in Acres for Housing Region 1

Income Capacity Factor: 0.11%

The **Income Capacity Factor** measures the difference between a municipality’s income level and that of the municipality with the lowest-income level in its Housing Region. It is an average of two percentages. The first percentage is the amount that the municipality contributes to the regional difference of income compared to the regional income floor. The second percentage is the municipality’s contribution to the regional difference of income compared to the regional income floor, weighted by the number of households within the municipality. Qualified Urban Aid municipalities were excluded from these calculations. For Fairview, located in Housing Region 1, the lowest municipal median household income is the City of Paterson. The City of Paterson’s median household income is \$52,092. Housing Region 1’s median household income floor is calculated by subtracting \$100 from the figure of \$52,092, resulting in \$51,992. This is the value in which Fairview’s median household income will be compared. For the Borough of Fairview, the Income Capacity is calculated to be 0.11%. A summary of the calculation is as follows:

$$0.11\% = \frac{5,823 * (59,359 - 51,992)}{33,410,794,107} + \frac{59,359 - 51,992}{8,355,312}$$

Where:

0.11% = Income Capacity Factor for Fairview

5,823 = Number of Households in Fairview

59,359 = Median Household Income in Fairview

51,992 = Median Household Income Floor for Housing Region 1

33,410,794,107 = Total Median Household Income Differences times Households for Housing Region 1

8,355,312 = Median Household Income Differences for Housing Region 1

Average Allocation Factor: 0.35%

The **Average Allocation Factor** is calculated by averaging three metrics: Equalized Nonresidential Valuation Factor, Land Capacity Factor, and the Income Capacity Factor. For Qualified Urban Aid municipalities, this average was zero as they have no obligation. Municipalities with an average greater than zero, the Average Allocation Factor was multiplied by the Prospective Need for their respective Housing Region to determine the Prospective Need of the municipality. For the Borough of Fairview, the Average Allocation Factor is calculated to be 0.35%. A summary of the calculation is as follows:

$$0.35\% = \frac{0.94\% + 0.01\% + 0.11\%}{3}$$

Where:

0.35% = Average Allocation Factor for Fairview

0.94% = Equalized Nonresidential Valuation Factor for Fairview

0.01% = Land Capacity Factor for Fairview

0.11% = Income Capacity Factor for Fairview

Prospective Need: 97

The Prospective Need for the Borough of Fairview has been calculated to be 97 units by the DCA. This calculation multiplied the Prospective Need of Housing Region 1 by the Average Allocation Factor for the Borough of Fairview. A summary of the calculation is as follows:

$$97 = 0.35\% * 27,743$$

Where:

97 = The Prospective Need for Affordable Housing in Fairview

0.35% = Average Allocation Factor for Fairview

27,743 = The Prospective Need for Housing Region 1

AMENDMENT – Since, the land capacity factor needs to be amended based on the additional information provided by the Borough, the Prospective Need calculation would also need to be revised. A summary of the calculation is as follows:

$$0.34\% = \frac{0.94\% + 0.00\% + 0.11\%}{3}$$

Where:

0.34% = Average Allocation Factor for Fairview

0.94% = Equalized Nonresidential Valuation Factor for Fairview

0.00% = Land Capacity Factor for Fairview

0.11% = Income Capacity Factor for Fairview

Prospective Need: 94

The amended Prospective Need for the Borough of Fairview has been calculated to be 94 units. This calculation multiplied the Prospective Need of Housing Region 1 by the Average Allocation Factor for the Borough of Fairview. A summary of the calculation is as follows:

$$94 = 0.34\% * 27,743$$

Where:

94 = The Prospective Need for Affordable Housing in Fairview

0.35% = Average Allocation Factor for Fairview

27,743 = The Prospective Need for Housing Region 1

Regional Prospective Need Calculation: 27,743

The Prospective Need for the six Housing Regions was determined based on the rate of change in population over the course of ten (10) years. With population data from the 2010 and 2020 Decennial Census, the change is calculated and then divided by 2.5 an assumed factor of Low- and Moderate- Income household growth. This calculation was done for each Housing Region to determine the Prospective Need. For Housing Region 1, the Regional Prospective Need is calculated to be 27,743. A summary of the calculation is as follows.

$$27,743 = \frac{(873,062 - 803,704)}{2.5}$$

Where:

27,743 = Regional Prospective Need for Housing Region 1

873,062 = 2020 Households – Decennial Census for Housing Region 1

803,704 = 2010 Households – Decennial Census for Housing Region 1

2.5 = Factor for Assumed Low- and Moderate- Income Household Growth

CONCLUSION

Department of Community Affairs released non-binding obligations for affordable housing for each municipality in the state. By releasing non-binding numbers the DCA offered municipalities the opportunity to provide additional information that may result in amending the numbers calculated by DCA. Based on the information provided in the Department of Community Affairs Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, the Borough of Fairview Housing Element and Fair Share Plan, Zoning Board of Adjustment Decisions, and Planning Board Decisions, we believe the calculations shall be amended to identify the inconsistencies found within the datasets. Specifically, the Land Capacity Factor which included property that is not capable of being developed or already being developed.

The Borough of Fairview's present need obligation shall be **313 units**, the same obligation provided by DCA. However, the Borough's prospective need shall be amended to be **94 units** in lieu of the 97 units provided by the DCA, as it correctly identifies the land capacity factor within the Borough.