

**RESOLUTION**



**Borough of Fort Lee  
Bergen County, New Jersey**

Council	Motion	Second	Yes	No	Abstain	Absent
<b>Sohmer</b>			X			
<b>Yoon</b>			X			
<b>Suh</b>		X	X			
<b>Drumgoole</b>			X			
<b>Kasofsky</b>			X			
<b>Cervieri</b>	X		X			

January 16, 2025  
Regular Session Meeting  
Resolution # R-5  
Carried: X Defeated:    Tabled:     
Approved on Consent Agenda:   

**RESOLUTION COMMITTING TO DCA’S FOURTH ROUND  
AFFORDABLE HOUSING PRESENT NEED AND 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 Fort Lee’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 241 units and a Prospective Need or New Construction Obligation of 382 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, Fort Lee** 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, Fort Lee relies on the DCA calculations of Fort Lee's fair share obligations as modified herein to account for Fort Lee'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 Fort Lee's affordable housing planner, and Fort Lee seeks to commit to provide its fair share of 241 units present need and 360 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**, Fort Lee reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, Fort Lee 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, Fort Lee 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 Mayor and Council find that it is in the best interest of Fort Lee 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 Mayor and Council find that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Fort Lee 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 16<sup>th</sup> day of January, 2025 by the Mayor and Council of the Borough of Fort Lee, 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. Fort Lee hereby commits to the DCA's Round 4 Present Need Obligation of 241 units and the DCA's Round 4 Prospective Need Obligation of 360 units, a modification of the DCA's Round 4 Prospective Need Obligation of 382 units, as explained above and in the attached memo from Fort Lee's affordable housing planner, and subject to all reservations of rights set forth above

3. Fort Lee 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. Fort Lee 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.

I, Nadine Drumgoole, Deputy Municipal Clerk of the Borough of Fort Lee, Bergen County, New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Mayor and Council at a regular meeting held on January 16, 2025.

  
Nadine Drumgoole

Nadine Drumgoole, Deputy Municipal Clerk