

**RESOLUTION OF THE TOWNSHIP OF SADDLE BROOK, BERGEN COUNTY,
COMMITTING TO THE TOWNSHIP'S FOURTH ROUND AFFORDABLE HOUSING
OBLIGATION AS CALCULATED BY DCA**

CR# 0125-24

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed P.L. 2024, c.2 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 abolished the Council on Affordable Housing, also known as COAH, and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "Program"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate 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 the Township of Saddle Brook, Bergen County, Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 42 and a Prospective Need or New Construction Obligation of 279; 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 Fourth Round affordable housing obligations; 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, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

WHEREAS, based on the foregoing, the Township of Saddle Brook accepts the DCA calculations of the Township's fair share obligations and commits to its fair share of 42 units present need and 279 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized 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, the Township of Saddle Brook reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township of Saddle Brook 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 litigation or legislative 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, the Township of Saddle Brook reserves the right to take such position as it deems appropriate in response thereto, including that its Fourth Round Present or Prospective Need Obligations should be lower than described herein; 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, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Governing Body of the Township of Saddle Brook finds that it is in the best interest of the Township 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 Administrative Office of the Court 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 FHA shall file an action in the form of 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"; and

WHEREAS, the Township of Saddle Brook seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 29th day of January, 2025 by the Mayor and Council of the Township of Saddle Brook, Bergen County, New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. For the reasons set forth in this resolution, the Township of Saddle Brook hereby commits to the DCA Fourth Round Present Need Obligation of 42 units and the Fourth Round Prospective Need Obligation of 279 units described in this resolution, subject to all reservations of rights which specifically include:
 - a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
 - b) All rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA;
 - c) All rights to take any contrary position in the event of a third party challenge to the obligations.

3. The Township of Saddle Brook hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Bergen County within 48 hours after adoption of this resolution, attaching this resolution.
4. The Township of Saddle Brook authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.
5. The Township of Saddle Brook hereby directs its Township Clerk to post this resolution on the Township website within 48 hours after adoption of this resolution, attaching this resolution.
6. The Township of Saddle Brook shall undertake all acts necessary to adopt a housing element and fair share plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.
7. This resolution shall take effect immediately, according to law.

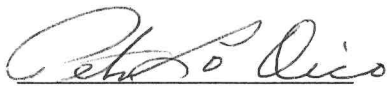
Motion: Councilman Cimiluca

Second: Councilwoman Sanchez

Roll Call:

Councilman Cimiluca – yes
Councilman Accomando – yes
Councilwoman Sanchez – yes
Councilwoman Mazzer - yes
Council President Gierak – yes

I hereby certify this to be a true resolution adopted by the Township Council at its Public meeting held on January 29, 2025.



Peter Lo Dico RMC CMC
Township Clerk