



BOROUGH OF WOODCLIFF LAKE

188 PASCACK ROAD, WOODCLIFF LAKE, NEW JERSEY 07677

Carlos Rendo, Mayor
Tomas J. Padilla, Borough Administrator

201-391-4977
Fax 201-391-8830

Council Member	Motion	Second	Yea	Nay	Abstain	Absent
Bonanno			X			
Brodsky			X			
Margolis	X		X			
Marsh			X			
Pollack			X			
Stern		X	X			
Mayor Rendo						

RESOLUTION OF THE BOROUGH OF WOODCLIFF LAKE, BERGEN COUNTY, COMMITTING TO THE BOROUGH'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION

RESOLUTION NO. 25-55 JANUARY 27, 2025

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed into law, a Bill commonly known as A4/S50 or P.L. 2024, c.2, which amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter the "4th Round Rules"); and

WHEREAS, the 4th Round Rules 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"), ordered to be formed by the same law; and

WHEREAS, the 4th Round Rules requires the DCA to calculate and publish, not later than October 20, 2024, non-binding estimates of fair share obligations, comprised of the Present Need or Rehabilitation Obligation and a Prospective Need or New Construction Obligation, for each municipality in the State of New Jersey; and

WHEREAS, the Prospective Need represents the need for newly constructed or preserved affordable housing units projected over the next 10 years, calculated for "regions" consisting of three to four counties and allocated to each municipality based on three (3) factors to allocate the Regional Need to each applicable municipality: equalized non-residential valuation, income capacity, and land capacity; and

WHEREAS, the Borough of Woodcliff Lake is located in Region 1, identified in the 4th Round Rules as consisting of all municipalities in Bergen, Hudson, Passaic, and Sussex Counties; and

WHEREAS, the Present Need represents the need for rehabilitation of substandard homes in the municipality, occupied by low- and moderate-income households, based upon publicly available local estimates of housing that lacks adequate plumbing or kitchens, is overcrowded, is more than 50 years old, and is likely to be occupied by low- and moderate-income households; 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 4th Round Rules; and

WHEREAS, the DCA Report calculates the Round 4 (2025-2035) obligation of the Borough of Woodcliff Lake (“Borough”), as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 423; and

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

WHEREAS, the 4th Round Rules 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, the Borough of Woodcliff Lake’s affordable housing planner, DMR Architects, 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, DMR Architects has identified an error in the DCA’s land capacity analysis whereby the DCA correctly removed land within the 300 feet of a Category-One (C1) linear water

bodies but failed to measure appropriate buffers around C1-rated lakes, ponds, or reservoirs such as the Woodcliff Lake Reservoir and Holdrum Brook Pond, which are also subject to the 300-foot buffer requirement; and

WHEREAS, applying the most recently published American Community Service (“ACS”) data for the 5-year period of 2018 to 2023 to the DCA’s Methodology Workbook for Income Allocation Factor reduces the allocation factor from 1.61% to 1.39%; and

WHEREAS, after excluding lands that were inaccurately determined by the DCA to be developable and adjusting the income data, the Borough calculated its Round 4 obligation to include a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 329 units as noted in DMR Architects’ analysis attached herewith as Exhibit A; and

WHEREAS, the 4th Round Rules provides 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, the Borough’s calculation of its Round 4 obligation was calculated in accordance with sections 6 and 7 of the 4th Round Rules and is therefore entitled to a presumption of validity; and

WHEREAS, the 4th Round rules, as written at Section 23 of P.L.2024, c.2 (C.52:27D-310.1), allow built-out communities to seek an adjustment of their Prospective Need obligations based on a lack of vacant, available, and environmentally unconstrained land on which to build new homes, called a vacant land adjustment, with the caveat that any municipality seeking a vacant land adjustment shall be required to prepare a Housing Element and Fair Share Plan providing for the satisfaction of not less than 25% of its 329 unit Prospective Need , or 83 units; and

WHEREAS, DMR Architects conducted an analysis according to the 4th Round rules and methodologies, and concluded that the Borough of Woodcliff Lake has a realistic development potential of less than 83 units, based upon vacant and available land, before accounting for the 25% minimum; and

WHEREAS, the Planning Board of Woodcliff Lake Borough shall adopt not later than June 30, 2025 a Housing Element and Fair Share Plan addressing its Prospective and Present Needs, with the Prospective Need to be adjusted to not less than 83 units based upon a lack of vacant land, pursuant to section 23 of P.L.2024, c.2 (C.52:27D-310.1); and

WHEREAS, the 4th Round Rules require that every municipality adopt before January 31, 2025, and upload onto a website created for the Program within 48 hours of adoption, a binding resolution identifying their affordable housing obligations; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the 4th Round Rules that the Legislature may enact; and

WHEREAS, the Borough 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 4th Round Rules; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough of Woodcliff Lake 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 addition to the foregoing, nothing in the 4th Round Rules requires or can require an increase in the Borough's Round 4 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 4th Round Rules is to establish, for example, unchallenged numbers by default on March 1, 2025; and

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

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Fair Housing Act 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 Borough seeks a certification of compliance with the Fair Housing Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Bergen County.

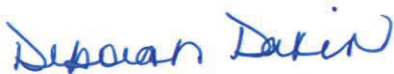
NOW, THEREFORE, THE FOLLOWING SHALL BE RESOLVED, by the Council of the Borough of Woodcliff Lake, Bergen County, New Jersey on this 27th day of January 2025:

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 Borough of Woodcliff Lake commits to a Round 4 Present Need obligation of 0 units and a Round 4 Prospective Need obligation of 329 based on the calculations set forth in Exhibit A, subject to all reservations of all rights, which specifically include, without limitation, the following:
 - a. The right to a vacant land adjustment and any other adjustment in accordance with COAH regulations;
 - b. The right to adjust its fair share obligations in the event of any future legislation that changes its obligations under current law;
 - c. The right to adjust its obligations based upon any ruling in the Montvale case (MER-L-1778-24) or any other litigation; and
 - d. The right to adjust its obligations in the event of a third-party challenge to the fair share obligations set forth by the DCA
3. The Borough's Affordable Housing Counsel, within 48 hours of the passing of this resolution, file a declaratory judgment complaint in Bergen County in order to maintain the Borough's immunity from exclusionary zoning litigation.
4. The Borough 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 Borough Clerk shall publish the filing materials and this resolution on a publicly accessible page of the Borough's website.
6. The Borough shall undertake all acts necessary to adopt, not later than June 30, 2025, a Housing Element and Fair Share Plan addressing its Prospective and Present Needs, with the Prospective Need to be adjusted to not less than 83 units based upon a lack of vacant land, pursuant to section 23 of P.L.2024, c.2 (C.52:27D-310.1)
7. This resolution shall take effect immediately, according to law.

CERTIFICATION

I, Deborah Dakin, Municipal Clerk of the Borough of Woodcliff Lake in the County of Bergen, and the State of New Jersey, do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of January 27, 2025.



DEBORAH DAKIN, RMC, CMR
BOROUGH CLERK