

**PEMBERTON TOWNSHIP
RESOLUTION NO. 47-2025**

**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 the Township of Pemberton's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 79 units and a Prospective Need or New Construction Obligation of 79 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, the Township of Pemberton 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, the Township of Pemberton relies on the DCA calculations of the Township of Pemberton's fair share obligations as modified herein to account for the Township of Pemberton'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 the Township of Pemberton's affordable housing planner, and the Township of Pemberton seeks to commit to provide its fair share of 79 units present need and 79 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, the Township of Pemberton reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township of Pemberton 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, the Township of Pemberton 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 the Township of Pemberton 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 the Township of Pemberton 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;

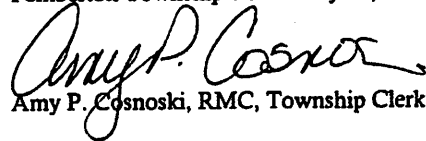
NOW, THEREFORE, BE IT RESOLVED on this 15th day of January 2025 by the governing body of the Township of Pemberton, County of Burlington, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Township of Pemberton hereby commits to the DCA's Round 4 Present Need Obligation of 79 units, and the DCA's Round 4 Prospective Need Obligation of 79 units, as explained above and in the attached memo from the Township of Pemberton's affordable housing planner, and subject to all reservations of rights set forth above
3. The Township of Pemberton hereby directs its Township Attorney, Jerry J. Dasti, Esq. to file a declaratory judgment complaint in Burlington County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit with the attached memo.
4. The Township of Pemberton authorizes its Township Attorney, Jerry J. Dasti, to submit and/or file the within resolution with the 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.

PEMBERTON TOWNSHIP COUNCIL

ATTEST:

I hereby certify that the foregoing Resolution was adopted by the governing body of Pemberton Township on January 15, 2025.


Amy P. Cosnoski, RMC, Township Clerk

I herein certify this document to be a true and correct copy of the original Resolution as duly adopted by the Governing Body of Pemberton Township at a meeting held on January 15, 2025.


Amy P. Cosnoski, RMC, Township Clerk