

R25-23

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY RESOLUTION COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED FOR THE BOROUGH OF MERCHANTVILLE

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 Merchantville's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 15 units and a Prospective Need or New Construction Obligation of 15 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, Merchantville 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, Merchantville relies on the DCA calculations of Merchantville's fair share obligations as modified herein to account for Merchantville'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 Merchantville seeks to commit to provide its fair share of 15 units present need and 4 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, Merchantville reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Merchantville 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, Merchantville 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, Merchantville finds that it is in the best interest of Merchantville 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 Merchantville finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Merchantville 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 27th day of January, 2025, by the Merchantville of Merchantville, County of Camden, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this Resolution.
2. Merchantville hereby commits to the DCA’s Round 4 Present Need Obligation of 15 units and a modification of the DCA’s Round 4 Prospective Need Obligation from 15 units to 4 units, and subject to all reservations of rights set forth above.
3. Merchantville hereby directs Timothy J. Higgins, Esquire to file a declaratory judgment complaint in Camden County within 48 hours after adoption of the within Resolution and attaching this Resolution as an exhibit.
4. Merchantville authorizes Timothy J. Higgins, Esquire to submit and/or file the within Resolution 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.

THE BOROUGH OF MERCHANTVILLE

BY: 
EDWARD F. BRENNAN, MAYOR

ATTEST:


DENISE BROUSE, BOROUGH CLERK

I, **DENISE BROUSE**, Borough Clerk of the Borough of Merchantville, do hereby certify the foregoing to be a true and correct copy of the Resolution adopted by Borough Council at a meeting of said Borough Council on January 27, 2025, and that said Resolution passed by a majority vote of the members of Borough Council.


DENISE BROUSE, BOROUGH CLERK