

Resolution No. 2025-32

TOWN OF SECAUCUS
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION COMMITTING TO THE NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS' FOURTH
ROUND AFFORDABLE HOUSING PRESENT NEED AND
PROSPECTIVE NEED NUMBERS

WHEREAS, on March 20, 2024, Governor Phil Murphy signed an Amendment to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("Amended FHA") into law; and

WHEREAS, pursuant to the Amended FHA, municipalities are required to determine the Present Need obligation (Rehabilitation) and Prospective Need obligation (New Construction) of their fair share of the regional need for affordable housing ("Fair Share Obligation") during the 10-year period beginning on July 1, 2025 (the "Fourth Round"); and

WHEREAS, pursuant to the Amended FHA, should a municipality determine its Fair Share Obligation by January 31, 2025, the municipality's determination shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, unless challenged by an interested party on or before February 28, 2025; 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 Town of Secaucus's Round 4 (2025-2035)

obligations as follows: a Present Need or Rehabilitation Obligation of 25 units and a Prospective Need or New Construction Obligation of 1,282 units/credits, capped at 1,000 units/credits; 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, 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, based on the foregoing, the Town of Secaucus accepts the DCA calculations of the Town of Secaucus's fair share obligations and commits to its fair share of 25 units present need and 1,282 capped at 1,000 units/credits of prospective need subject to any vacant land and/or durational adjustments it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Amended FHA; and

WHEREAS, pursuant to the Amended FHA, any challenge to a municipality's determination must be initiated through the Affordable Housing Alternative Dispute Resolution Program (the "Program") by February 28, 2025, shall explain with particularity how the municipality's calculation fails to comply with N.J.S.A. 52:27D-304.2 and 52:27D-304.3, and include the challenger's own calculation of the fair share obligations in

compliance with said sections; and

WHEREAS, pursuant to the Amended FHA, the Program shall resolve all challenges to a municipality's determination of its Fourth Round obligation by March 31, 2025, during which time the municipality shall retain its immunity from exclusionary zoning lawsuits; and

WHEREAS, the Town of Secaucus reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Town of Secaucus also reserves the right to adjust its position in the event of any rulings in Borough of Montvale v. State of New Jersey, Docket No. 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, Town of Secaucus reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in light of the above, the Mayor and Council of Town of Secaucus finds that it is in the best interest of the Town of Secaucus 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 Courts 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, Town of Secaucus seeks a certification of compliance with the FHA and, therefore, directs Chasan Lamparello Mallon & Cappuzzo, PC, Special Counsel, to file a declaratory relief action within 48 hours of the adoption of this resolution in the Superior Court of New Jersey, Hudson County.

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January, 2025 by the Mayor and Council of the Town of Secaucus as follows:


1. All of the above Whereas Clauses are incorporated into the operative clauses of this Resolution.
2. The Town of Secaucus hereby commits to the DCA Round 4 Present Need Obligation of 25 units and the Round 4 Prospective Need Obligation of 1,282 capped at 1,000 units/credits as described in this Resolution, subject to all reservations of rights set forth above.
3. The Town of Secaucus hereby directs Chasan Lamparello Mallon & Cappuzzo, PC, Special Counsel, to file a declaratory judgment Complaint in the Superior Court of New Jersey, Hudson County within 48 hours after adoption of this Resolution, attaching this Resolution.
4. The Town of Secaucus hereby directs Michael Marra, RMC, Town Clerk, to publish this Resolution on the municipal website within 48 hours after adoption of this Resolution.

5. The Town of Secaucus authorizes its Special Counsel, Chasan Lamparello Mallon & Cappuzzo, PC, 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.

6. This Resolution shall take effect immediately, according to law.

Motion	Yes	No	Abstain	Absent
OT				
Second RC				
Councilman Gerbasio	✓			
Councilwoman Tringali	✓			
Councilman Costantino	✓			
Councilman McKeever	✓			
Councilman Clancy	✓			
Councilman Dehnert	✓			
Mayor Gonnelli	✓			

I, Michael Marra, Town Clerk of the Town of Secaucus, County of Hudson, do hereby certify that the above is a true copy of a resolution approved by the Mayor and Council on January 28, 2025



 Town Clerk Mayor