

**Resolution 2025-44**

**BOROUGH OF SPOTSWOOD  
COUNTY OF MIDDLESEX**

**RESOLUTION CONDITIONALLY COMMITTING TO ROUND 4 PRESENT  
AND PROSPECTIVE NEED FOR AFFORDABLE HOUSING OBLIGATIONS.**

**WHEREAS**, the Borough of Spotswood, County of Middlesex, State of New Jersey, (hereinafter, "Borough" or "Spotswood") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

**WHEREAS**, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1986 Fair Housing Act (hereinafter "Amended FHA" or ("Act")); and

**WHEREAS**, the Amended FHA requires the Department of Community Affairs ("DCA") to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20 2024 based upon the criteria on the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act; and

**WHEREAS**, the DCA Report calculates Spotswood Round 4 (2024-2035) fair share affordable obligations as follows: a Present Need (Rehabilitation) Obligation of 7 and a Round 4 Prospective Need (New Construction) Obligation of 42; and

**WHEREAS**, the Amended FHA further provides that "[a] 11 parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statutes, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311 (m)); and

**WHEREAS**, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey and also empower municipalities to secure vacant land adjustment, durational adjustments and other adjustments; and

**WHEREAS**, the Borough has accepted the Present Need ("Rehabilitation") Obligation of 7 and a Round 4 Prospective Need of 42 as reported by the DCA in its October 18,2024 Report subject to various other rights and conditions; and

**WHEREAS**, in accordance with N.J.S.A: 52:27D-311 (m) of the Amended Act, the Borough invokes its right to a vacant land adjustment, which will result in a reduction to the new construction portion of its fair share; and

**WHEREAS, substantial** activity has occurred and is ongoing since the enactment of the Amended FHA that warrants the reservation of certain rights to avoid any claim that it has waived them;

**WHEREAS**, for example, the New Jersey Institute of Local Government Attorneys (“NJILGA”) has expressed its support for proposed legislation (hereinafter “NJILGA Legislation”) which would reduce Spotswood’s Round 4 Prospective Need to 11 and would give the Borough “90 days from receipt of the revised fair share obligation from the [DCA] to provide an amended Housing Element and Fair Share Plan addressing the new number”; and

**WHEREAS**, the Borough of Spotswood supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

**WHEREAS**, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-24) (hereinafter “Montvale Litigation”) seeking to stay the implementation of the Amended FHA for a number of reasons and outcome of that litigation is uncertain; and

**WHEREAS**, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

**WHEREAS**, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

**WHEREAS**, in light of the above, the Borough of Spotswood finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act; and

**WHEREAS**, in addition to the above, the Acting Administrative Director 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 Act shall file an action in the form of a declaratory judgment complaint 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 of Spotswood seeks a certification of compliance with the Act and, therefore, directs its Borough Attorney to file a declaratory relief action within 48 hours of the adoption of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** on this 27<sup>th</sup> day of January, 2025, by the Governing Body of the Borough of Spotswood, County of Middlesex, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.

2. For the reasons set forth in this resolution and its attachments, the Borough of Spotswood commits to a Round 4 Present Need (“Rehabilitation”) Obligation of 7 and a Round 4 Prospective Need (“New Construction”) of 42 subject to all reservations of all rights, which specifically include, without limitation, the following:

- a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH regulations;
- b. The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations;
- c. The right to adjust its fair share obligations in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;
- d. The right to comply with any future obligations that changes its obligations under current law;
- e. The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or any other litigation; and
- f. The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and the Borough of Spotswoods’ response thereto.

3. The Borough hereby directs its Borough Attorney to file a declaratory judgment Complaint in the appropriate venue within 48 hours after adoption of this resolution attaching this resolution.

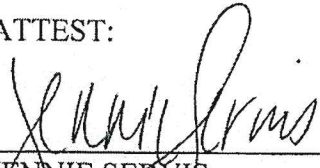
4. The Borough also hereby authorizes its Borough Attorney to file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. This resolution shall take effect immediately, according to law.

DATED: January 27, 2025

  
NICHOLAS LEGAKIS  
Council President

ATTEST:

  
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JENNIE SERVIS  
Acting Municipal Clerk