

**25-023****RESOLUTION OF THE TOWNSHIP OF OCEAN, MONMOUTH COUNTY, COMMITTING TO THE TOWNSHIP'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION AS CALCULATED BY DCA**

**WHEREAS**, on March 20, 2024, Governor Philip D. Murphy signed P.L. 2024, c.2 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 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 "DRP"), created by the same law; and

**WHEREAS**, the Amended FHA requires the DCA to calculate 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 Ocean, Monmouth County, Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 51 and a Prospective Need or New Construction Obligation of 166; 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, durational adjustments and other adjustments; and

**WHEREAS**, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

**WHEREAS**, based on the foregoing, the Township of Ocean accepts the DCA calculations of the Township's fair share obligations and commits to its fair share of 51 units present need and 166 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized 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 Ocean reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, the Township of Ocean 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 litigation or legislative 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 Ocean 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 addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township'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 Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in light of the above, the Governing Body of the Township of Ocean finds that it is in the best interest of the Township 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 Administrative Office of the Court 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**, the Township of Ocean seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Mayor and Council of the Township of Ocean, Monmouth County, New Jersey as follows:

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 Township of Ocean hereby commits to the DCA Round 4 Present Need Obligation of 51 units and the Round 4 Prospective Need Obligation of 166 units described in this resolution, subject to all reservations of rights which specifically include:
  - a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
  - b) All rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA;
  - c) All rights to take any contrary position in the event of a third party challenge to the obligations.

