

EXHIBIT 1

RESOLUTION NO. 2025-35**RESOLUTION OF THE BOROUGH OF MORRIS PLAINS, COUNTY OF MORRIS, STATE OF NEW JERSEY COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough of Morris Plains, County of Morris, State of New Jersey, (hereinafter, "Morris Plains") 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 1985 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 Morris Plain's Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 0 and a Prospective Need (New Construction) Obligation of 137; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

WHEREAS, the Amended FHA gives municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; 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 the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including the Act, or binding court decisions" (N.J.S.A 52:27D-311 (m)); and

WHEREAS, COAH regulations empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, the Mayor of Morris Plains formed an ad hoc Morris Plains Affordable Housing Committee (hereinafter, "Committee") to address matters arising out of the Act, with the Committee being composed of the Mayor, members of the Governing Body, Planning Board, and Board of Adjustment, in addition to the Borough Planner, Borough Engineer, and Borough Affordable Housing Counsel; and

WHEREAS, the committee has carefully and diligently assessed information associated with the Act as it pertains to Morris Plains and reported its findings and recommendations to the Morris Plains Governing Body for its consideration; and

WHEREAS, Morris Plains has accepted the Present Need (Rehabilitation) Obligation of 0 as reported by the DCA in its October 18, 2024 Report; and

WHEREAS, Morris Plains has exercised its right to demonstrate that the data, when correctly applied, supports a lower Round 4 Prospective Need obligation than that reported by the DCA on October 18, 2024; and

WHEREAS, more specifically, Morris Plains maintains that its Round 4 prospective need number is 106 based upon its examination of the data used to calculate each of the three (3) allocation factors; and

WHEREAS, as to the **Equalized Nonresidential Allocation Factor**, Morris Plains has examined the data the DCA used to establish this factor and concluded that DCA has accurately calculated this Factor ; and

WHEREAS, as to the **Income Capacity Allocation Factor**, Morris Plains has examined the data the DCA used to establish this factor and concluded that the DCA has accurately calculated this Factor; and

WHEREAS, as to the **Land Capacity Allocation Factor**, Morris Plains notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 27, 2024 instead of by October 20, 2024; and

WHEREAS, Morris Plains further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. **It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.**" (emphasis added); and

WHEREAS, Morris Plains maintains that the areas the DCA identified as developable are indeed overinclusive and, consequently, its Professional Planner has prepared a report, attached hereto as Exhibit A, showing the lands that Morris Plains contends should be removed from the inventory of sites used to fashion the **Land Capacity Allocation Factor**; and

WHEREAS, it is therefore important that Morris Plains not commit to an incorrect obligation; and

WHEREAS, correcting the allocation factors results in Morris Plains' Round 4 Prospective Need Obligation being 106 rather than the obligation established by DCA; and

WHEREAS, the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Act; and

WHEREAS, Morris Plains' calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

WHEREAS, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

WHEREAS, for example, the New Jersey Institute of Local Government Attorneys (NJILGA) has expressed its support for proposed legislation (hereinafter "NJILGA Legislation") would reduce Morris Plains' Round 4 Prospective Need to 24 and would give Morris Plains "90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number); and

WHEREAS, Morris Plains 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") challenging the validity of the Act and other aspects deriving from the Act, including, without limitation, Directive #14-24, issued by the Acting Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") as further referenced below; 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, Morris Plains is entitled to a vacant land adjustment in Round 4 that will be included in the HEFSP it submits by the June 30, 2025 deadline; 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, Morris Plains 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 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 compliance certification 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, Morris Plains seeks a compliance certification with the Act 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 30th day of January, 2025 by the Governing Body of the Borough of Morris Plains, County of Morris, 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, Morris Plains commits to a Round 4 Present Need (Rehabilitation) Obligation of 0 and a Round 4 Prospective Need (New Construction) obligation of 106, as set forth in the Exhibit to this Resolution, 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 the Act and 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 obligation 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 adjust its fair share obligations based upon any ruling in the Montvale Litigation or other litigation; and
 - e) The right to adjust its fair share obligations in the event of a third party challenge to the fair share obligations and Morris Plains' response thereto.
3. Morris Plains hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the appropriate venue within 48 hours after adoption of this resolution attaching this resolution.
4. Morris Plains hereby authorizes its Affordable Housing Counsel 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.

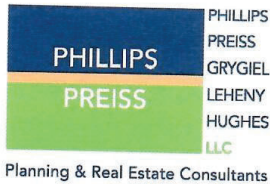
CERTIFICATION

I, Rosanne Denman, Municipal Clerk for the Borough of Morris Plains, County of Morris, State of New Jersey, hereby certifies the foregoing to be a true copy of a Resolution adopted by the Governing Body of the Borough of Morris Plains on January 30, 2025.



Rosanne Denman, Municipal Clerk

Dated: January 31, 2025



Memorandum

To: Mayor Jason Karr and Members of the Borough of Morris Plains Council
cc: Edward Buzak, Esq. Borough Affordable Housing Attorney for Morris Plains
From: Elizabeth Leheny, AICP, PP, Borough Planner for Morris Plains
Date: January 24, 2025
**RE: Assessment and Recommendations for Borough of Morris Plains, NJ
Regarding Round 4 Present and Prospective Need
Affordable Housing Obligations**

INTRODUCTION

This memorandum provides an analysis and sets forth recommendations to the Mayor and Council of the Borough of Morris Plains, NJ (the "Borough") regarding the Borough's Round 4 (2025-2035) Present and Prospective Need affordable housing obligations.

BACKGROUND

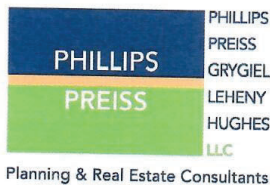
On March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act ("FHA") which required the New Jersey Department of Community Affairs ("DCA") to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024, based upon the criteria outlined in the amended FHA.

DCA issued a report on October 18, 2024 (the "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.

The DCA Report calculates Morris Plain's Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 0 and a Prospective Need (New Construction) Obligation of 137.

The Amended FHA states that the DCA Report is non-binding and permits municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and provides municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA Report. The Amended FHA requires

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municipalities to adopt a binding resolution no later than January 31, 2025, as to its obligations.

Prior to adopting the binding resolution setting forth the Borough's obligations, Morris Plains has exercised its right to analyze the data reported by DCA in the October 18, 2024 Report. Below is an analysis of the Present Need and Prospective Need obligations stated in the October 18, 2024 Report, as well as our recommendations to the governing body regarding the Borough of Morris Plains' Round 4 obligation.

PRESENT NEED

DCA's proposed non-binding Prospective Need obligation for Morris Plains is 0.

Recommendation: We recommend that Morris Plains accept the Present Need (Rehabilitation) Obligation of 0 as reported by the DCA in its October 18, 2024 Report.

PROSPECTIVE NEED

DCA's proposed non-binding Prospective Need obligation for Morris Plains is 137. As described in the "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" report, municipal Prospective Need obligations are calculated as a share of the region in which the municipality is located. Region 2, in which Morris Plains is located, includes Warren, Union, Morris, and Essex Counties.

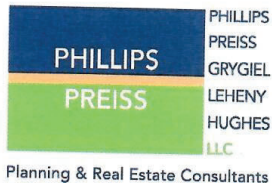
As established in the Amended FHA, the regional Prospective Need is calculated by establishing the increase in households in the region between the 2020 and 2010 Federal Decennial Census and dividing the household change increase by 2.5 to estimate the number of low- and moderate-income households (and the number of homes needed to address same).

The Prospective Need for Region 2 is 20,506 units, with this need allocated to municipalities throughout the region, except for designated Qualified Urban Aid Municipalities, which are exempt from addressing Prospective Need. Regional Prospective Need is then allocated across the non-qualified urban aid municipalities in the region by applying three factors detailed below.

Equalized Nonresidential Valuation Factor

The Equalized Nonresidential Valuation Factor measures the change in nonresidential property valuations in the municipality from 1999 to 2023 divided by the regional total change in nonresidential valuations, with the intent to shift housing to municipalities experiencing employment growth.

Under the DCA calculation, the Borough of Morris Plains experienced an equalized nonresidential valuation growth of \$110,766,059 between 1999 and 2023. This represents 0.43 percent of all growth experienced during this period



across Region 2, in other words, **the Equalized Nonresidential Valuation Factor for Morris Plains is 0.43 percent.**

We have reviewed the calculations that resulted in this number, i.e., the 1999 and 2023 Tax Assessment data for the Borough of Morris Plains, and do not believe there are any errors that warrant a challenge by the Borough.

Income Capacity Factor

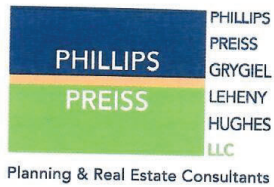
The Income Capacity Factor measures the extent to which a municipality's income level differs from that of the lowest-income municipality in the Housing Region. The factor is calculated by averaging two measures. The first is calculating the municipal share of the regional sum of differences between median household income and an income floor of \$100 below the lowest median household income in the region. The second is the same calculation weighted by number of households within the municipality. The intent is to shift portions of the obligation to municipalities with higher household incomes. This **Income Capacity Factor for Morris Plains is 0.90 percent.** We have reviewed the calculations that resulted in this number and do not believe there are any errors that warrant a challenge by the Borough.

Land Capacity Factor

The Land Capacity Factor purports to determine the total acreage that is developable in a municipality as a proportion of developable acreage in the Region. This is determined by utilizing the most recent land use / land cover data from the New Jersey Department of Environmental Protection (DEP), in combination with the most recently available MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from DCA. The calculation of developable land is intended to exclude lands subject to development limitations, including open space, preserved farmland, category one waterways and wetland buffers, steep slopes and open waters. DCA preserved all areas that remained that were greater than 2,500 SF in size, under the assumption that an area of twenty-five feet by 100 feet may be considered developable.

DCA estimated that Morris Plains has 36.42 acres of developable land. The DCA calculated that Region 2 contains a total of 5,358 acres of developable land. As such, DCA calculated that the Borough of Morris Plains had 0.68 percent of developable land across Region 2.

DCA issued the data that was the basis for the land allocation factor on November 27, 2024. While this data was intended to heed the methodology set forth in the Amended FHA, the land area contained in the dataset was described



as an “estimate of the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.”

The areas identified as developable in the DCA’s calculation of the Land Capacity factor is overinclusive per our analysis. A parcel-by-parcel analysis is provided in **Attachment A**. In short, our analysis set forth this basis for removing land treated as developable in the DCA’s calculation:

- Areas or portions of areas <25’ wide (i.e., DCA’s methodology report states that a 25’ by 100’ area was their minimum threshold for developability).
- Areas within the regulatory floodway.
- Open space/parkland properties with deed restrictions and/or on ROSI or listed as dedicated conservation, park lands and open space in the master plan.
- Properties under construction or recently developed.
- Sites with site plan approvals for development and/or permits issued for development.
- Public utility parcels, NJDOT/NJ Turnpike Authority parcels, DRPA parcels, railroad properties, rights-of-way, stormwater management, etc.
- Properties with easements restricting development within developable area.

Accordingly, it is our opinion that the amount of developable land used to calculate the land capacity allocation factor should be adjusted from ±36.42 acres to ±12.00 acres. This would also reduce the total developable land within Region 2 by approximately ±24 acres from 5,358 acres to ±5,334 acres. **The Land Capacity Factor for the Borough would also be reduced from 0.68 percent to 0.22 percent.**

Prospective Need Obligation

Pursuant to the Amended FHA, DCA averaged the Equalized Nonresidential Valuation Factor, Income Capacity Factor, and Land Capacity Factor for each municipality to determine an Average Allocation Factor, which is the basis for municipal Prospective Need.