

RESOLUTION NO. 2025-58

RESOLUTION COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS

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 South Toms River's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 35; 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 biding 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 Borough of South Toms River accepts the DCA calculations of South Toms River's fair share obligations and commits to its fair share of 0 units present need and 35 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, the Borough of South Toms River reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough of South Toms River 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



Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
f: 732.905.6555

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough of South Toms River 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 Borough Council the Borough of South Toms River finds that it is in the best interest of South Toms River 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 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, South Toms River seeks a certification of compliance with the FHA and, therefore, directs the Borough Affordable Housing Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Ocean County.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of South Toms River, County of Ocean, State of New Jersey, as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Borough of South Toms River hereby commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 35 units described in this resolution, subject to all reservations of rights set forth above.
3. The Borough of South Toms River hereby authorizes its Borough Attorney to file a declaratory judgment complaint in Ocean County within 48 hours after adoption of this resolution, and/or to file this resolution with the Program or any other such entity as may be determined to be appropriate.



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CERTIFICATION

I, Jamie Jubert, do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body of the Borough of South Toms River at a meeting held on the **10th** day of February , **2025**.

Jamie Jubert
JAMIE JUBERT, CMR
 Acting Borough Clerk
 South Toms River

Record of Vote	Councilman Fennell	Councilman Kosh	Councilman Murray	Councilman Rolzhausen	Council-woman Rolzhausen	Councilman Ross
Motion To Approve	✓					
Motion to Second				✓		
Approved	✓	✓	✓	✓	✓	✓
Opposed						
Not Voting/Recuses						
Absent/Excused						

r|m|s|h|c

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