

**TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY
2025
RESOLUTION NO.58**

A motion was made by Richard Jasterzbski seconded by Joseph Scuralli that the following resolution be adopted:

**RESOLUTION COMMITTING TO DCA'S
FOURTH ROUND AFFORDABLE HOUSING
PRESENT NEED AND PROSPECTIVE NEED
OBLIGATION NUMBERS AS MODIFIED**

- WHEREAS, on March 20, 2024, New Jersey 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 Wayne Township's Round 4 (2025-2035) obligations as follows: a Present Need, also known as Rehabilitation Obligation, of 162 units and a Prospective Need, also known as New Construction Obligation, when applied to the Amended FHA "cap" of 1,000 units, set at 1,000 units; 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, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, 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, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and

Resolution No.58

Page 2

WHEREAS, Wayne Township has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based on the foregoing, Wayne Township relies on the DCA calculations of Wayne Township's fair share obligations as modified herein to account for Wayne Township's review of the equalized nonresidential valuation factor and the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by Wayne Township's affordable housing planner, and Wayne Township seeks to commit to provide its fair share of 162 units present need and 1,000 units prospective need, subject to any vacant land and/or durational adjustments and/or other adjustments it may seek as part of the Housing Plan element and Fair Share Plan element that it subsequently submits in accordance with the Amended FHA; and

WHEREAS, Wayne Township reserves the right to comply with any additional amendments to the FHA, other applicable affordable housing law, regulations and/or binding case law, as the case may be; and

WHEREAS, Wayne Township 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, law, applicable regulation and/or binding case law that alters the deadlines, obligations, methodologies and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, Wayne Township reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, Wayne Township finds that it is in the best interest of Wayne Township to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

Resolution No.58

Page 3

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, Wayne Township finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Wayne Township to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED on this 22nd day of January, 2025 by the Township Council of Wayne Township, County of Passaic, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Wayne Township hereby commits to a Round 4 Present Need Obligation of 162 units, and commits to a Round 4 Prospective Need Obligation of 1,000 as explained above and in the attached memorandum from Wayne Township's affordable housing planner dated January 17, 2025, and subject to all reservations of rights set forth above and herein.
3. Wayne Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the Superior Court of New Jersey, venue of Passaic County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit thereto along with the attached memorandum.
4. Wayne Township authorizes its Affordable Housing Counsel to submit and/or file the within resolution with the attached memorandum 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.

ROLL CALL:

AYES: Jonathan Ettman, Michael Fattal, Richard Jasterzbski, Joseph Scuralli, David Varano, Jason DeStefano

NAYS: Al Sadowski

ABSENT: Francine Ritter, Jill Sasso

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF THE RESOLUTION ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WAYNE AT ITS REGULAR MEETING HELD ON JANUARY 22, 2025.



PAUL V. MARGIOTTA
TOWNSHIP CLERK

