

TOWNSHIP OF CARNEYS POINT, COUNTY OF SALEM,
STATE OF NEW JERSEY
RESOLUTION 2025-43

**RESOLUTION OF THE TOWNSHIP OF CARNEYS POINT ESTABLISHING THE
TOWNSHIP'S FOURTH ROUND PRESENT AND PROSPECTIVE NEED PURSUANT
TO THE FAIR HOUSING ACT AS CALCULATED BY THE NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS**

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed into law P. L. 2024, c.2, which substantially amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to produce non-binding estimates of Fourth Round present and prospective need 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 Carneys Point's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 43 and a Prospective Need or New Construction Obligation of 93; and

WHEREAS, the Amended FHA has established a January 31, 2025 deadline for municipalities to determine and accept its Fourth Round present and prospective affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing this resolution with the Affordable Housing Dispute Resolution Program ("Program"); and

WHEREAS, the Township of Carneys Point is determined to address the January 31, 2025 deadline established in the Amended FHA for the acceptance of the DCA-calculated Fourth Round affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing this resolution (**within 48 hours of resolution adoption**) with the Program; and

WHEREAS, the Township of Carneys Point commits to the Fourth Round Present Need and Prospective Need numbers produced by DCA and acknowledges that its fair share of affordable housing is cumulative, meaning it must address the Prospective Need Obligations from the First, Second and Third Rounds, reflective of the prior Court-approved durational adjustments of its Prospective Need Obligations; and

WHEREAS, the Township of Carneys Point shall apply for a durational adjustment of some or all of its Fourth Round Prospective Need as part of its Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, notwithstanding the foregoing, substantial activity has occurred surrounding the Amended FHA and is ongoing since the legislation was signed into law that warrants the Township of Carneys Point explicitly reserving certain rights to avoid any claim that it has waived them; and

WHEREAS, the Amended FHA specifically 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-311m), of which the municipality intends to utilize in the crafting of its Housing Element and Fair Share Plan; and

WHEREAS, the Township of Carneys Point reserves all rights to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such relevant action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event of a third-party challenge of the calculations provided for in this Resolution, the Township of Carneys Point reserves the right to take such position as it deems appropriate; and

WHEREAS, in light of the above, the Township of Carneys Point finds that it is in the best interest of the Township of Carneys Point 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 Courts issued Administrative Directive #14-24, dated December 13, 2024, and made the directive available on December 18, 2024; and

WHEREAS, pursuant to Administrative 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 Carneys Point reiterates its determination to voluntarily comply with the Amended FHA in order to maintain immunity from exclusionary zoning litigation and, thus, the Township will also voluntarily comply with the requirement of the Administrative Directive #14-24 to file a declaratory relief action in Superior Court which shall be viewed by both the Program and/or the Courts as the Township specifically seeking a certification of compliance with the Amended FHA so as to avail itself of all rights and privileges of voluntary compliance with the Amended FHA; and

WHEREAS, the Township of Carneys Point seeks a Fourth Round certification of compliance with the Amended FHA and, therefore, directs its Township COAH Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Salem County.

NOW, THEREFORE, BE IT RESOLVED, on this 15th day of January 2025 by the Township Committee of the Township of Carneys Point, Salem County, State of New Jersey, as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this resolution as if set forth in full.
2. The Township Committee of the Township of Carneys Point hereby commits acceptance of the DCA Fourth Round Present Need Obligation of 43 and the Prospective Need Obligation of 93 described in this Resolution, subject to all reservations of rights, which specifically include:
 - a. The right to adjust its obligations in the event of any future legislation that adjusts the obligations the DCA reported on October 18, 2024;
 - b. The right to adjust its obligations based upon binding litigation; and
 - c. The right to take such position as it deems appropriate in any third-party challenge.
3. The Township Committee of the Township of Carneys Point hereby directs its Township Attorney to file a declaratory judgment complaint in Salem County within 48 hours after adoption of this resolution attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.
4. The Township Committee of the Township of Carneys Point further directs its Township Attorney to file the declaratory judgment complaint within 48 hours after adoption of this resolution with the Dispute Resolution Program or any other such entity as may be determined to be appropriate, and attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.
5. The Township Committee of the Township of Carneys Point further directs its Township Clerk to post a copy of the declaratory judgment complaint within 48 hours after adoption of this resolution on the Township website, and attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.

This resolution shall take effect immediately according to law.

ATTEST:


June Proffitt, Township Clerk

CARNEYS POINT TOWNSHIP


Kenneth H. Brown, Mayor

COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
SHAW			X			
PELURA			X			
BOMBA	X		X			
JOHNSON		X	X			
BROWN			X			