

R2025-026

BOROUGH OF BOUND BROOK
County of Somerset

RESOLUTION 2025-026

RESOLUTION OF THE BOROUGH OF BOUND BROOK COMMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS' FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AND AUTHORIZING PROFESSIONALS TO PREPARE A HOUSING ELEMENT AND FAIR SHARE PLAN

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 the **BOROUGH OF BOUND BROOK's** Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of ninety-one (91) and a Prospective Need or New Construction Obligation of thirty-one (31) ; 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 BOUND BROOK** accepts the DCA calculations of the Borough of Bound Brook's fair share obligations and commits to its fair share of ninety-one (91) units present need and thirty-one (31) 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 BOUND BROOK** reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

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WHEREAS, the **BOROUGH OF BOUND BROOK** 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

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the **BOROUGH OF BOUND BROOK** 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 Mayor and Council of **BOROUGH OF BOUND BROOK** finds that it is in the best interest of the **BOROUGH OF BOUND BROOK** 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, the **BOROUGH OF BOUND BROOK** seeks a certification of compliance with the FHA and, therefore, directs its ATTORNEY, THE LAW OFFICES OF ERIK C. PETERSON, LLC to file a declaratory relief action within 48 hours of the adoption of this resolution in Somerset County.

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025 by the Mayor and Council of the **BOROUGH OF BOUND BROOK** as follows:

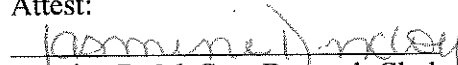
1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The **BOROUGH OF BOUND BROOK** hereby commits to the DCA Round 4 Present Need Obligation of ninety-one (91) units and the Round 4 Prospective Need Obligation of thirty-one (31) units described in this resolution, subject to all reservations of rights set forth above.
3. The **BOROUGH OF BOUND BROOK** hereby directs its attorney, the Law Offices of Erik C. Peterson, LLC to file a declaratory judgment complaint in Somerset County within 48 hours after adoption this resolution, attaching this resolution.
4. The **BOROUGH OF BOUND BROOK** authorizes its attorney, the Law Offices of Erik C. Peterson, LLC to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

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5. the **BOROUGH OF BOUND BROOK** also authorizes its affordable housing professionals to prepare the appropriate Housing Element and Fair Share Plan as a component of the Borough's Master Plan so that is filed with DCA on or before June 30, 2025; and

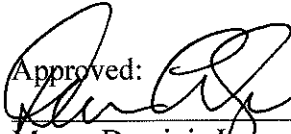
6. This resolution shall take effect immediately, according to law.

Attest:



Jasmine D. McCoy, Borough Clerk

Approved:



Mayor Dominic Longo

Date of Adoption: January 28, 2025