

RESOLUTION

NO. 2025-45

ADOPTED: JANUARY 27, 2025

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.) (“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 Branchburg Township’s Fourth Round (2025-2035) obligations as follows: a Present Need Obligation of 0 units and a Prospective Need Obligation of 297 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 Fourth Round 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

WHEREAS, the 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, the Township relies on the DCA calculations of the Township’s fair share obligations as modified herein to account for the Township’s review of 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 the Township's Affordable Housing Planner, and the Township seeks to commit to provide its fair share of 0 Present Need units and 247 Prospective Need units, 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 Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact and adjust its fourth round affordable housing obligation in accordance therewith; and

WHEREAS, the 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 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 Township reserves the right to take such position as it deems appropriate in response thereto, including that its Fourth Round prospective need obligation should be lower than described herein; and

WHEREAS, in light of the above, the Township Committee finds that it is in the best interest of 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

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, the Township Committee finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of 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 by the Township Committee of the Township of Branchburg, County of Somerset, State of New Jersey that: (1) the above Whereas clauses are incorporated herein and made part of this Resolution; (2) the Township hereby commits to a Fourth Round affordable housing Present Need obligation of 0 units and Prospective Need obligation of 247 units as set forth in this Resolution and the attached memo from the Township's Affordable Housing Planner and the adoption of a Housing Element and Fair Share Plan in accordance therewith subject to all reservations of rights set forth herein; (3) the Township Attorney shall file a Declaratory Judgment Complaint within 48 hours after adoption of this Resolution attaching this Resolution and the memo of the Township's Affordable Housing Planner as an exhibit; (4) the Township Attorney is hereby authorized to submit and/or file the within Resolution and attached memo from the Township's Affordable Housing Planner with the Program or any other such entity as may be determined to be appropriate; (5) the Township Clerk shall post on the Township website this Resolution and the attached memo from the Township's Affordable Housing Planner; and (6) this Resolution shall take effect immediately.

ATTEST:

Maggie Schmitt
 Maggie Schmitt, RMC
 Township Clerk

Thomas Young
 Thomas Young
 Mayor

ROLL CALL VOTE				
COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
SCHWORN	✓			
COLUMBUS	✓			
OWENS	✓			
BEATRICE	✓			
YOUNG	✓			

CERTIFICATION

I, Maggie Schmitt, Clerk of the Township of Branchburg, County of Somerset, State of New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Branchburg Township Committee at a duly advertised public meeting held on January 27, 2025.

Maggie Schmitt
 Maggie Schmitt, RMC





P.O. Box 236
2 East Broad Street, 2nd Floor
Hopewell, NJ 08525
609-455-0972 (v)
609-374-9939 (f)
klelie@kylemcmamus.com

To: Branchburg Township Committee

From: Kendra Lelie, PP, AICP, LLA

Re: Branchburg Township Fourth Round Prospective Need

Date: January 17, 2025

The methodology used by the Department of Community Affairs (DCA) yields a Fourth-Round obligation of 297 units. The DCA released additional data related to the Land Capacity Factor component that is one of three metrics used to determine a municipal Fourth-Round obligation in accordance with the 2024 Fair Housing Act (FHA). The Land Capacity Factor data was released on November 27, 2024, which was a month after the FHA deadline for the issuance of the non-binding obligation.

Kyle + McManus Associates recalculated the Land Capacity Factor (LCF) as indicated below and recommends the Township adopt a Fourth Round Prospective Need of 247 units. Our office reviewed the DCA parcel data for the Township which includes land areas identified as developable. The DCA recognized in the release of the LCF information that the identified areas could be over or under inclusive depending on various conditions and a municipality may provide more detailed analysis and mapping to support a different LCF value.

Broadly speaking, there are 6 steps to determine the obligation for each municipality. Each step and commentary regarding the potential for alteration of the data input follows:

1. Identify the housing region. Branchburg Township has been and continues to be, as per the FHA, in Region 3. This region includes Hunterdon, Middlesex and Somerset Counties.
2. Determine the regional (affordable housing) need. The FHA sets forth that the regional need for the 10-year round (2025-2035) shall be based on the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census. The resulting change in households is divided by 2.5. The affordable housing need in Region 3 is determined to be 11,604 dwelling units.
3. Determine the regional and each municipal equalized nonresidential valuation factor. This step requires that the changes in nonresidential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be divided by the regional total change in nonresidential valuation. The FHA states the data input shall be that which is published by the Division of Local Government Services. The division annually publishes a summary of municipal tax data, including a *Non-Residential*



Summary of Non-Residential Value. This data addresses the value of all commercial, industrial, and apartment properties in the municipality. However, the value of the apartment properties are not included in the nonresidential valuation factor.

4. Determine the municipal and regional income capacity factor. This step is an average of 1) the municipal share of the regional sum of the differences between the median municipal household income and an income floor of \$100 below the lowest median household income in the region and 2) the municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of \$100 below the lowest median household income in the region, weighted by the number of the households in the municipality. The FHA states the data input shall be American Community Survey ("ACS") five-year estimates. The ACS publishes municipal median household incomes as part of its five-year estimates.
5. Determine the municipality's land capacity factor. Estimate municipal developable land using the most recent land use land cover data and weighing such land based on the planning area type in which such land is located. The FHA sets forth one of three weighting factors for a variety of planning areas across the state. Developed areas of the State, such as Planning Areas 1 and 2, Centers, etc. have a weight of 1.0. Rural and environmentally sensitive planning areas have a weight of zero; the remaining areas have a weight of 0.5.

The parcels identified as developable in the DCA's calculation of the LCF for Branchburg is overinclusive. Accordingly, I believe the developable land should be adjusted from 167 acres to 33.8 acres. The following criteria were utilized to exclude parcels as developable:

- Areas or portions of areas <25' wide (because 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 the Recreation and Open Space Inventory.
- 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.
- Properties that are within Planning Area 4 and Planning Area 5 of the State Plan.

Below is the developable land analysis table for Branchburg that supports the revised LCF value based on the lands that were found not to be developable.



Block	Lot	Property Location	Property Class	Developable Acreage	PA Weight	Not Developable Criteria
3	19	18 LAMINGTON RD	15C	2.238	1	Township Owned - 3rd Round Site
5	28	29 LAMINGTON RD	15D	0.201	1	Privately owned Church - Developed
7	4	3020 RT 22	3B	0.147	1	
7	4	3020 RT 22	3B	0.388	1	
7	4	3020 RT 22	3B	0.199	1	
7	4	3020 RT 22	3B	0.982	1	
7	4	3020 RT 22	3B	0.421	1	
7	4	3020 RT 22	3B	23.625	1	
9	15	MEISTER AVE	3B	1.621	1	Premier Dev - Summit Green
9	15	MEISTER AVE	3B	5.558	1	Premier Dev - Summit Green
9	15	MEISTER AVE	3B	13.335	1	Premier Dev - Summit Green
9	31	3201 RT 22	15D	0.643	1	Developed - Stax Restaurant
10	5	3091 RT 22	4B	1.207	1	Developed - Transwestern.
10	5	3091 RT 22	4B	0.166	1	Developed - Transwestern.
10	5	3091 RT 22	4B	0.380	1	Developed - Transwestern.
10	5	3091 RT 22	4B	2.394	1	Developed - Transwestern.
13	1	RAILROAD MAINLINE	5A	0.060	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.138	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.068	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.122	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.388	1	Railroad Property



Block	Lot	Property Location	Property Class	Developable Acreage	PA Weight	Not Developable Criteria
13	1	RAILROAD MAINLINE	5A	0.348	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.397	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.579	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.211	1	Railroad Property
13	1	RAILROAD MAINLINE	5A	0.847	1	Railroad Property
13	2	170 STATION RD	5A	0.128	1	Railroad Property
13	2	170 STATION RD	5A	0.368	1	Railroad Property
13	2.02	READINGTON RD & RAILROAD	15C	0.180	1	Railroad Property
17	13	101 LESLIE LN	15C	0.075	1	Township Owned - Open Space Lot
17.13	12.01	240 HARLAN SCHOOL	15C	0.070	1	Township Owned - Municipal Pool
17.13	12.01	240 HARLAN SCHOOL	15C	0.092	1	Township Owned - Municipal Pool
21	1	STONY BROOK RD	1	0.139	1	Environmentally Constrained Lot - Not developable
21	2	RIVER RD	1	5.522	1	
22	1	HARLAN SCHOOL RD - REAR	15C	0.112	1	Township Owned - Open Space Lot
22	2	HARLAN SCHOOL RD - REAR	15C	1.805	1	Township Owned - Open Space Lot
22	4	HARLAN SCHOOL RD - REAR	15C	0.179	1	Township Owned - Open Space Lot



Block	Lot	Property Location	Property Class	Developable Acreage	PA Weight	Not Developable Criteria
23	6	HARLAN SCHOOL RD - REAR	15C	5.134	1	Township Owned - Open Space Lot
44	3.01	CEDAR GROVE RD - REAR	1	0.059	1	Owned by Elizabeth Town Water - Water Tower
48	11	122 ROBBINS RD	15D	0.267	1	Midland School - Developed.
58.01	4	255 EVANS WAY	3B	0.201	1	Privately owned - Developed
60.02	11	94 WINDY WILLOW WAY	15D	0.097	0.5	Midland School - Developed.
61	14	1200 ROUTE 202	3B	0.111	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.079	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.152	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.136	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.153	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.455	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.096	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.297	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	0.421	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	1.208	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	1.818	1	Privately owned - Developed
61	14	1200 ROUTE 202	3B	1.860	1	Privately owned - Developed
61.04	2	1150 ROUTE 202	3B	1.150	1	Privately owned - Developed



Block	Lot	Property Location	Property Class	Developable Acreage	PA Weight	Not Developable Criteria
67	2	2049 SOUTH BRANCH RD	3B	15.173	1	Township Owned - Open Space Lot
68	5	2088 SOUTH BRANCH RD	15C	0.382	1	Township Owned - reserved for recreation
68	5	2088 SOUTH BRANCH RD	15C	5.342	1	
68.05	7	120 CHUBB WAY	1	2.080	1	
68.07	12	1824 HOLLAND BROOK RD	1	0.492	1	
69.03	31	1827 HOLLAND BROOK RD	1	0.087	1	Constricted by Easements and wetlands. Not sufficient access
69.03	31	1827 HOLLAND BROOK RD	1	0.175	1	Constricted by Easements
70	18	1324-1344 RT 202	3B	0.147	1	Private Development - 2G under construction
70	18	1324-1344 RT 202	3B	0.718	1	Private Development - 2G
70	18	1324-1344 RT 202	3B	55.792	1	Private Development - 2G
70	24.01			0.124	1	Private Development - 2G
73.01	2	1390 RT 202	3B	0.070	1	Constricted by easements for overhead wires and gas lines
73.01	2	1390 RT 202	3B	1.072	1	Constricted by easements
74	3	RED ROCK DR EAST & WEST	1	4.738	1	Private Development - Conifer Developed



Block	Lot	Property Location	Property Class	Developable Acreage	PA Weight	Not Developable Criteria
76	29.01	650 CASE RD	15C	0.152	1	Township Open Space
76	29.01	650 CASE RD	15C	1.215	1	Township Open Space
76.07	16	1104 VAN ARSDALE DR	15C	0.217	1	County Owns Lot - Detention Basin
Developable Acreage				33.8		

6. Determine the municipal obligation. The three factors (nonresidential value, income, and land capacity) are averaged and then applied to the regional need to determine how the need shall be allocated to each municipality.

As indicated below in the Methodology Summary table, the reduction in the developable acres for the LCF leads to a Fourth Round prospective need number of 247 not 297.

**Fourth Round Obligation
Methodology Summary**

	DCA	KMA
Household Change (Region 3)	29,009	29,009
Low & Mod Home Estimate (Region 3)	11,604	11,604
Nonresidential Valuation Factor	3.88%	3.88%
Regional Income Capacity Factor	2.18%	2.18%
Land Capacity Factor*	1.62%	0.33%
Average Factor	2.56%	2.13%
Gross Prospective Need	297	247