

**RESOLUTION 2025-49
TOWNSHIP COMMITTEE – TOWNSHIP OF GREEN
COUNTY OF SUSSEX, STATE OF NJ**

**RESOLUTION ADOPTING AN AFFORDABLE HOUSING OBLIGATION
FOR THE FOURTH ROUND**

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 required 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 Green Township’s (“Township”) Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 4 units and a Prospective Need or New Construction Obligation of 265 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

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

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WHEREAS, the DCA identified one parcel, 37 acres in size, along 517 Decker Pond Road, which the Township planner has opined is not appropriate to accommodate development, thereby reducing the developable lands that may accommodate development within Green Township to zero (0) acres; 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 the Township seeks to commit to provide its fair share of 4 units present need and 91 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 Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; 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 Round 4 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 the 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 the 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 of Green, County of Sussex, State of New Jersey as follows:

1. The Township hereby commits to the Round 4 Present Need Obligation of 4 units and a Round 4 Prospective Need Obligation of 91 units (modified from DCA's calculation of 265 units), as explained above, and subject to all reservations of rights set forth above

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2. The Township hereby directs the Township Attorney to file a declaratory judgment complaint in Sussex County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit.

3. The Township authorizes its Township Attorney to submit and/or file the within resolution with the Program or any other such entity as may be determined to be appropriate.

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

DATED: January 22, 2025

I, Mark Zschack, Township Clerk of the Township of Green, County of Sussex, State of New Jersey, do hereby certify the foregoing resolution to be a true and correct copy of a resolution adopted by the Township Committee at a regular meeting held on January 22, 2025.



Mark Zschack, RMC, Township Clerk

Record of Vote:

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
DeYoung		√	√			
Phillips	√		√			
Qarmout						√
Rose			√			
Mayor Raffay			√			