

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2025-58

Council Meeting Date: 01-28-2025

Date Adopted: 01-28-2025

TITLE: RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED

Councilperson Geoffroy submitted the following resolution, which was duly seconded by Councilperson Cumiskey.

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 HFA"); 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 New Providence's (the "Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 20 units and a Prospective Need or New Construction Obligation of 210 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, 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 the basis for calculating the land capacity factor; and

WHEREAS, the Borough 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 upon the foregoing, the Borough relies on the DCA calculations of the Borough's fair share obligations as modified herein to account for the Borough'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 Borough's Affordable Housing Planner, and the Borough seeks to commit to provide its fair share of 20 units present need and 198 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 reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough 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 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 Mayor and Council of the Borough of New Providence find that it is in the best interests of the Borough of New Providence 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 the AOC Directive #14-24 dated December 13, 2024, the Mayor and Council find that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough of New Providence 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 Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey as follows:

1. All of the above Whereas clauses are incorporated into the operative clauses of this Resolution.

2. The Borough of New Providence hereby commits to the DCA's Round 4 Present Need Obligation of 20 units and a modification of the DCA's Round 4 Prospective Need Obligation of 210 units to 198 units as explained above and in the attached memo from the Borough's Affordable Housing Planner, and subject to all reservations of rights set forth above.

3. The Borough of New Providence hereby directs its Borough Attorney to file a declaratory judgment complaint in Union County within 48 hours after adoption of the within Resolution and attaching this Resolution as an exhibit with the attached memo.

4. The Borough of New Providence hereby authorizes its Borough Attorney to submit and/or file the within Resolution with attached memo 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.

APPROVED, this 28th day of January, 2025.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DOLAN	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 28th day of January, 2025.


Denise Brinkofski, Borough Clerk

Borough Of New Providence
County Of Union
State Of New Jersey


Allen Morgan, Mayor