

RESOLUTION 2025-35
BOROUGH OF WASHINGTON RESOLUTION COMMITTING
TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT
NEED AND PROSPECTIVE NEED NUMBERS

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 WASHINGTON's** Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of zero (0) and a Prospective Need or New Construction Obligation of twenty-seven (27); 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 WASHINGTON** accepts the DCA calculations of the Borough of Washington's fair share obligations and commits to its fair share of zero (0) units present need and twenty-seven (27) 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 WASHINGTON** reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the **BOROUGH OF WASHINGTON** 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 WASHINGTON** 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 WASHINGTON** finds that it is in the best interest of the **BOROUGH OF WASHINGTON** 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 WASHINGTON** 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 XX County.

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

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

2. The **BOROUGH OF WASHINGTON** hereby commits to the DCA Round 4 Present Need Obligation of zero (0) units and the Round 4 Prospective Need Obligation of twenty-seven (27) units described in this resolution, subject to all reservations of rights set forth above.

3. The **BOROUGH OF WASHINGTON** hereby directs its attorney, the Law Offices of Erik C. Peterson, LLC to file a declaratory judgment complaint in Warren County within 48 hours after adoption this resolution, attaching this resolution.

4. The **BOROUGH OF WASHINGTON** 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.

5. the **BOROUGH OF WASHINGTON** 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.

Certification

I, Laurie A Courter, Clerk of the Borough of Washington, County of Warren, State of New Jersey, do hereby certify that the foregoing Resolution is a true and exact copy of a Resolution adopted by the Borough Council of The Borough of Washington on January 21, 2025

Laurie A. Courter

Laurie A. Courter, RMC
Borough Clerk

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this

^{21st} day of January, 2025.

[SEAL]