

**Township of South Hackensack
County of Bergen**

Resolution No. 2025—071 Committing to Comply with Affordable Housing Obligations

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, Section 3 of the amended FHA provides that “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with Sections 6 and 7 of the amended FHA; and

WHEREAS, the DCA Report calculates the Borough’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 7 units and a Prospective Need or New Construction Obligation of 174 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 biding court decisions” (N.J.S.A 52:27D-311(m)); and

WHEREAS, pursuant to the FHA, in establishing its affordable housing obligation, a municipality must give consideration to the methodology and formulas used by the DCA in formulating its calculations as produced in the October 20, 2024 report, must describe the basis for its determination, and must bind the municipality to adopt a compliance housing element and fair share plan; and

WHEREAS, the Township accepts the formulas and methodologies employed by the DCA in generating regional present need and prospective need obligations; and

WHEREAS, in furtherance of the Amended FHA, the Township commits to adopting a compliance housing element and fair share plan prior to June 30, 2025 and within such plan, the Township will further examine the application of the regional present need obligation to the municipal level as authorized by the FHA through the use of a windshield survey; and

WHEREAS, in addition to the foregoing, nothing in the amended FHA requires or can require an increase in the Township’s Fourth Round obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Council finds that it is in the best interest of the Township 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 of DCA issued Directive #14-24, dated December 13, 2024, pursuant to which 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 Township seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Bergen County.

NOW THEREFORE, BE, AND IT IS HEREBY RESOLVED that the above Whereas Clauses are incorporated into the operative clauses of this resolution.

BE IT FURTHER RESOLVED that the Township hereby commits to the DCA Round 4 Present Need Obligation of 7 units and the Round 4 Prospective Need Obligation of 174 units described in this resolution subject to all reservations of rights set forth above.


BE IT FURTHER RESOLVED that the Township hereby directs its Counsel to file a declaratory judgment complaint in Bergen County within 48 hours after adoption this resolution attaching this resolution.

BE IT FURTHER RESOLVED that the Township authorizes its Counsel 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.

BE IT FURTHER RESOLVED this resolution shall take effect immediately, according to law.

Consent Agenda Resolution 2025-01A
January 23, 2025

ATTEST



Donna L. Gambutti, Township Clerk



James Anzevino, Mayor