

RESOLUTION NO. 2025-104

RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, COMMITTING TO DEPARTMENT OF COMMUNITY AFFAIRS' FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND SETTLING FAIR SHARE HOUSING CENTER CHALLENGE TO 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 Township of Little Egg Harbor's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 32 units and a Prospective Need or New Construction Obligation of 184 units; and

WHEREAS, the Amended FHIA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHIA 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 of Little Egg Harbor 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 of Little Egg Harbor relies on the DCA calculations of Township of Little Egg Harbor's fair share obligations as modified herein to account for the Township of Little Egg Harbor'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 report prepared by the Township of Little Egg Harbor's Affordable Housing Planner; and

WHEREAS, the Township of Little Egg Harbor approved Township Resolution 2025-072 on January 28, 2025, committing to the DCA's Round 4 Present Need Obligation of 32 units, and a modification of the DCA's Round 4 Prospective Need Obligation of 184 units to 142 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, on January 29, 2025, the Township filed a Complaint for Declaratory Judgment under the Fair Housing Act, in accordance with P.L. 2024, c. 4, In the Matter of the Application of the Township of Little Egg Harbor, Docket No. OCN-L-298-25, seeking continued protection and repose in accord with its prior immunity and the Fair Housing Act, as amended; and

WHEREAS, New Jersey Builders Association filed a challenge to the Complaint on February 27, 2025; and

WHEREAS, Fair Share Housing Center also filed a challenge to the Complaint on February, 28, 2025; and

WHEREAS, Township participated in mediation on March 17, 2025 with Fair Share Housing Center, by which a settlement was reached with Fair Share Housing Center on Round 4 Prospective Need Obligation of 165 units; and

WHEREAS, the Township Committee finds that it is in the best interest of the Township of Little Egg Harbor to commit to modified prospective need Fourth Round affordable housing fair share numbers set forth above, subject to the reservations set forth herein; and

WHEREAS, the Township of Little Egg Harbor reserves the right to comply with any additional amendments to the FHIA that the Legislature may enact; and

WHEREAS, the Township of Little Egg Harbor 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 FHIA; and


WHEREAS, The Township and Fair Share Housing Center agree the Township's prospective need may be further adjusted based upon a lack of vacant land pursuant to an adjustment as part of the Fourth Round Planning Process.

NOW, THEREFORE, BE IT RESOLVED on this 24th day of **March, 2025** by the Township Committee of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. All of the above "Whereas" clauses are incorporated into the operative clauses of this Resolution.
2. The Township of Little Egg Harbor hereby commits to the DCA's Round 4 Present Need Obligation of 32 units, and a modification of the DCA's Round 4 Prospective Need Obligation of 165 units, as explained above and subject to all reservations of rights set forth above, in settlement with the challenge filed by Fair Share Housing Center under In the Matter of the Application of the Township of Little Egg Harbor, Docket No. OCN-I-298-25.
3. The Township of Little Egg Harbor authorizes its Township 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.
4. This Resolution shall take effect immediately, according to law.

CERTIFICATION

I, KELLY LETTERA, CMC, RMC, Municipal Clerk of the Township of Little Egg Harbor do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the 24th day of **March, 2025**.



KELLY LETTERA, CMC, RMC
Township Clerk
Little Egg Harbor Township