

**RESOLUTION NO. 1-25-21
BOROUGH OF HIGHLAND PARK
COUNTY OF MIDDLESEX**

**RESOLUTION COMMITTING TO THE NEW JERSEY DEPARTMENT OF
COMMUNITY AFFAIRS' 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, pursuant to the Amended FHA, municipalities are required to determine the Present Need obligation (Rehabilitation) and Prospective Need obligation (New Construction) of their fair share of the regional need for affordable housing ("Fair Share Obligation") during the 10-year period beginning on July 1, 2025 (the "Fourth Round"); and

WHEREAS, pursuant to the Amended FHA, should a municipality determine its Fair Share Obligation by January 31, 2025, the municipality's determination shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, unless challenged by an interested party on or before February 28, 2025; and

WHEREAS, the Amended FHA requires the New Jersey 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 Borough of Highland Park's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 209 units and a Prospective Need or New Construction Obligation of 45 units/credits; 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, Borough of Highland Park accepts the DCA calculations of Borough of Highland Park's fair share obligations and commits to its fair share of 209 units of Present Need and 45 units/credits of 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, pursuant to the Amended FHA, any challenge to a municipality's determination must be initiated through the Affordable Housing Alternative Dispute Resolution Program (the "Program") by February 28, 2025, shall explain with particularity how the municipality's calculation fails to comply with N.J.S.A. 52:27D-304.2 and 52:27D-304.3, and include the challenger's own calculation of the fair share obligations in compliance with said sections; and

WHEREAS, pursuant to the Amended FHA, the Program shall resolve all challenges to a municipality's determination of its Fourth Round obligation by March 31, 2025, during which time the municipality shall retain its immunity from exclusionary zoning lawsuits; and

WHEREAS, Borough of Highland Park reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Borough of Highland Park 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, Borough of Highland Park 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 Borough Council of Borough of Highland Park finds that it is in the best interest of Borough of Highland Park 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

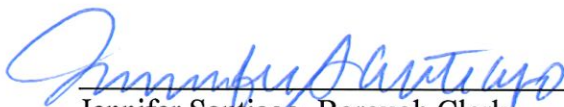
WHEREAS, Borough of Highland Park seeks a certification of compliance with the FHA and, therefore, directs the Borough Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Middlesex County.

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025 by the Borough Council of the Borough of Highland Park as follows:

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

2. Borough of Highland Park hereby commits to the DCA Round 4 Present Need Obligation of 209 units and the Round 4 Prospective Need Obligation of 45 units/credits as described in this resolution, subject to all reservations of rights set forth above.
3. Borough of Highland Park hereby directs the Borough Attorney to file a declaratory judgment complaint in Middlesex County within 48 hours after adoption this resolution, attaching this resolution.
4. The Borough of Highland Park hereby directs Jennifer Santiago, RMC, Borough Clerk, to publish this resolution on the municipal website within 48 hours after adoption of this resolution.
5. Borough of Highland Park authorizes its Borough Attorney 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.
6. This resolution shall take effect immediately, according to law.

I, Jennifer Santiago, Borough Clerk of the Borough of Highland Park, New Jersey, do hereby certify the foregoing to be a true copy of a Resolution adopted by the Highland Park Borough Council at a meeting held on January 21, 2025.


Jennifer Santiago, Borough Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
George	X			
Hale	X			
Hersh	X			
Kim-Chohan	X			
Postelnik	X			
Vargas	X			