



Township of Hillsborough

COUNTY OF SOMERSET
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Resolution Regarding the Township of Hillsborough's Present and Prospective Fair Share Affordable Housing Obligations for the Fourth (4th) Round

WHEREAS, on March 20, 2024, an Amendment to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. was signed into law ("Amended FHA"); and,

WHEREAS, the Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to determine non-binding estimates of fair share obligations on or before October 20, 2024; and,

WHEREAS, on October 18, 2024, the DCA issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth (4th) Round) Methodology and Background" ("DCA Report"), wherein the DCA reported its estimate of the obligations for all municipalities based upon its interpretation of the standards set forth in the Amended FHA; and,

WHEREAS, the DCA Report calculates the Township of Hillsborough's ("Township") Fourth (4th) Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of one hundred eleven (111) and a Prospective Need (New Construction) Obligation of five hundred and sixty-five (565); and,

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Fourth Round affordable housing obligations; and,

WHEREAS, pursuant to the Amended FHA, the Township may either accept the determination of its Present and Prospective Need Obligations as calculated by the DCA or make its own determination as to same; 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". See N.J.S.A. 52:27D-311(m); and,

WHEREAS, said COAH regulations authorize municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and,

WHEREAS, said COAH regulations also authorize municipalities to secure an adjustment to their Present Need (Rehabilitation) Obligation through a windshield survey; and,

WHEREAS, the Township hereby reserves its rights to pursue a reduction of its Present Need Obligation through such a windshield study as authorized by COAH's regulations; and,

WHEREAS, with respect to the determination of the Township's Prospective Need (New Construction) Obligation, the DCA has released a Geographic Information Systems (GIS) spatial data representation of the

Land Capacity Analysis containing the vacant and developable land information that serves as the basis for calculating the Land Capacity Factor that is required by the Amended FHA; and,

WHEREAS, the Township has reviewed the lands identified by the DCA for the Land Capacity Factor to ascertain whether these identified lands may accommodate development; and,

WHEREAS, as further set forth in detail and explained in the attached memo prepared by the Township's Affordable Housing Planner, upon reviewing the parcels identified as developable in the DCA's calculation as set forth on the GIS, the Township has determined that the DCA's determination is overinclusive and that a number of the lands identified by the DCA are not developable and must be excluded from the Land Capacity Factor; and,

WHEREAS, based on the above, the Township seeks to commit to a Present Need Obligation of one hundred eleven (111), as determined by the DCA, subject to a reservation of the Township's rights to pursue a reduction of its Present Need Obligation through a windshield study as authorized by COAH's regulations, and a Prospective Need Obligation of two hundred seventy (270), revised from the five hundred sixty-five (565) that was determined by DCA, to accurately reflect the developable lands in the Land Capacity Factor, subject to any vacant land, durational and/or other adjustments that the Township may seek as part of the Housing Element and Fair Share Plan ("HEFSP") it subsequently submits in accordance with the Amended FHA; and,

WHEREAS, the Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and,

WHEREAS, in the event that a third (3rd) party challenges the calculations provided for in this Resolution, the Township reserves the right to take such position as it deems appropriate in response thereto, including that its Fourth (4th) Round Present and/or Prospective Need Obligations should be lower than as described herein.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey that the Township hereby commits to a fair share Present Need (Rehabilitation) Obligation of one hundred eleven (111), as determined by the DCA, subject to a reservation of the Township's rights to pursue a reduction of its Present Need Obligation through a windshield study, as authorized by COAH's regulations and a Prospective Need (New Construction) Obligation of two hundred seventy (270), as determined by the Township's Affordable Housing Planner for the reasons set forth herein, for the Fourth (4th) Round of affordable housing obligations, subject to any vacant land, durational and/or other adjustments that the Township may seek as part of its HEFSP that it subsequently submits in accordance with the Amended FHA; and,

BE IT FURTHER RESOLVED that the Township's Affordable Housing Counsel is hereby directed and authorized to file a declaratory judgment action with the Superior Court of New Jersey, Somerset County no later than forty-eight (48) hours following adoption of this Resolution seeking a compliance certification regarding its fair share affordable housing obligation for the Fourth Round and that a copy of this Resolution shall be made part of such Court filing; and,

BE IT FURTHER RESOLVED that the Township Clerk is further authorized to immediately post a copy of this Resolution on the Township's website.

A handwritten signature in black ink, consisting of a stylized 'S' followed by a series of loops and a long horizontal stroke extending to the right.
