

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of the Township of Hamilton	Superior Court of New Jersey Law Division, Civil Part
	Docket No. MER-159-25
	Program Settlement Recommendation
	Present Need and Prospective Need

THIS MATTER, having come before the Affordable Housing Program, pursuant to the Complaint for Declaratory Judgment filed on January 23, 2025 (“DJ Complaint”) by the Township of Hamilton (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND IT APPEARING that, on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled “Affordable Housing Obligations for 2025-2035 (Fourth Round)”, therein setting forth the “present need” and prospective need” obligations of all New Jersey municipalities for the Fourth-Round housing cycle (the “DCA’s Fourth Round Report”);

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the "present need" obligation of the Petitioner has been calculated and reported as 186 affordable units, and its "prospective need" obligation of the Petitioner has been calculated and reported as 546 affordable units, and which calculations have been deemed "presumptively valid" for purposes of the FHA;

AND IT APPEARING that, the Amended FHA Act requires municipalities that wish to receive immunity for the Fourth Round via participation in the Program to file a "binding resolution no later than January 31, 2025" which contains the Township's calculation of its Fourth-Round fair share obligations and to "file an action regarding the resolution with the Program." N.J.S.A. 52:27D-304.1(f)(1)(b);

AND IT APPEARING that, the Municipality represented by Michael Herbert, Esq., timely adopted Resolution No. 25-080 on January 21, 2025, seeking deviation from the DCA numbers based on their planner's recommendation for 186 affordable housing units for present need and 504 units for a prospective need affordable housing obligation;

AND IT APPEARING that a challenge to the Municipal calculation of Prospective Need was timely and properly filed by the New Jersey Builders Association (NJBA) represented by Richard J. Hoff, Esq. and Paul Flannery, Esq., with NJBA disputing the town's proposed obligation for prospective need, and

supporting DCA's prospective need obligation for Hamilton, with the challenge supported by NJBA's expert report;

AND IT APPEARING that, the Administrative Office of the Courts ("AOC") and the Program appointed and assigned the case to program member Judge Mary C. Jacobson, retired, to manage the proceedings, host settlement conferences and make recommendations to the Mount Laurel Judge in accordance with the FHA statute and the AOC Directive;

AND IT APPEARING that, the appointed program member has fully considered all the submissions of counsel for all parties, the various planners' reports, the DCA report, and the program member having a conducted settlement conference on March 26, 2025, in accordance with the Directive and the statutory framework;

AND IT APPEARING that, the AOC appointed an independent special adjudicator affordable housing expert to work with, make recommendations and assist the program, working closely with the program member, and Jennifer Beahm having been appointed as special adjudicator in this case;

AND IT APPEARING that, the March 26, 2025 settlement conference was conducted on notice to all parties with the participation of local officials, attorneys, the town planner and Program special adjudicator, everyone with the goal of reaching a resolution;

AND IT APPEARING that, the parties have engaged in extensive settlement negotiations before and during the settlement conference, with the guidance and assistance of the program member assigned to the case and the special adjudicator;

AND IT APPEARING that, the municipality and NJBA have reached a resolution, and that the settlement was placed on the record on March 26, 2025, and that the Program then directed the parties to circulate a settlement agreement that will be uploaded to e-courts and requested that the municipal governing body adopt a resolution to accept the settlement, which should also be uploaded to e-Courts;

AND IT APPEARING that, the special adjudicator recommends accepting the settlement to the Program, and that the Program member also recommends the settlement as reasonable and as in the interest of low and moderate income households, and that the terms of the settlement are as follows: 186 units of affordable housing for the present need obligation and 520 units of affordable housing for the prospective need obligation, and that the parties will now move on to the compliance phase to address the remaining issues pursuant to FHA and the AOC Directive; and

For all those reasons, the program member hereby recommends for consideration and review that an ORDER be entered by the Mercer County Mount Laurel Judge as follows:

Accepting the proposed settlement and establishing that the affordable housing “present need” obligation of Hamilton, be, and hereby is fixed as 186 affordable units for the Fourth Round housing cycle, and that the “prospective need” obligation of the Municipality, be, and hereby is fixed as 520 affordable units for the Fourth Round Housing cycle.

And the Program also is recommending an order be entered that the Municipality is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

And the Program also is recommending an order that any and all “challenges” to the Petitioner’s housing element and fair share plan as adopted pursuant to Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the e-courts and as provided for and in accordance with Section III.B of Directive #14-24.

And the Program also is recommending that a copy of the Order shall be deemed served on the Petitioner, Petitioner’s counsel and the Program Chair upon

its posting by the Court to the e-Courts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

Respectfully submitted by the Program:

By: /s/ Mary C. Jacobson

Hon. Mary C. Jacobson, J.S.C. (Ret.)

Dated: March 31, 2025

Mount Laurel Judge:

The Program's decision is ☐accepted for the reasons set forth by the Program, ☐
accepted for the reasons set forth below, ☐rejected, ☐accepted/rejected in part.

Findings of fact and conclusions of law (Rule 1:7-4(a)):

By:

Hon. _____, J.S.C.

Dated: _____

PREPARED BY THE COURT

IN THE MATTER OF THE
APPLICATION OF THE
TOWNSHIP OF HAMILTON,
A MUNICIPAL CORPO-
RATION OF THE STATE OF
NEW JERSEY,

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MERCER COUNTY
DOCKET NO. L-159-25

CIVIL ACTION

Mt. Laurel Program

**DECISION AND ORDER FIXING
MUNICIPAL OBLIGATIONS FOR
“PRESENT NEED” AND
“PROSPECTIVE NEED” FOR THE
FOURTH ROUND HOUSING CYCLE**

PETITIONER

Township of Hamilton
Michael W. Herbert, Esq.
Parker McCay, P.A.
3840 Quakerbridge Road, Suite 200
Hamilton, NJ 08619

CHALLENGERS

New Jersey Builders Association
Richard J. Hoff, Esq.
Bisgaier Hoff, LLC
25 Chestnut St., Suite 3
Haddonfield, NJ 08033

THIS MATTER having come before the Court, the Hon. Robert Lougy, A.J.S.C., presiding, on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”) by Petitioner Township of Hamilton (“Petitioner” or “Municipality”), , pursuant to N.J.S.A. 52:27D-304.2, -

304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the “Program”, seeking a certification of compliance with the FHA; and for good cause shown;

AND IT APPEARING that the Municipality adopted Resolution 25-080 on January 21, 2025, seeking deviation from the “present need” and “prospective need” calculations allocated to it by the New Jersey Department of Community Affairs (“DCA”) in its report dated October 18, 2024 entitled Affordable Housing Obligations for 2025-2035 (Fourth Round) (the “DCA’s Fourth Round Report”), and based on the Municipality planners’ recommendation for 186 affordable housing units for “present need” and 504 units for a “prospective need” affordable housing obligation for the Fourth Round housing cycle;

AND IT APPEARING that a challenge to the Municipality’s calculations was timely filed by the New Jersey Builders Association (“NJBA” or “Challenger”) by and through its counsel, wherein NJBA disputed the Municipality’s proposed obligation for prospective need, and supported DCA’s present and prospective need obligations, with an expert report of J. Creigh Rahenkamp, PP, AICP;

AND IT APPEARING that pursuant to the Program, the Administrative Office of the Courts (“AOC”) appointed and assigned the case to Program member, the Hon. Mary C. Jacobson, J.S.C. (ret.) (“Program Member”) to manage the

proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC's Directive #14-24 ("Directive #14-24"), and that the Program Member appointed Jennifer C. Beahm, PP, an independent affordable housing expert, as special adjudicator ("Special Adjudicator") in this case to work with, make recommendations to, and assist the Program;

AND IT APPEARING that, on March 26, 2025, a settlement conference was conducted on notice to all parties with the participation of local officials, town planner, and attorneys for the Municipality and an attorney for the NJBA, and at which the parties engaged in extensive settlement negotiations, with the guidance and assistance of the Program Member and the Special Adjudicator;

AND IT APPEARING, that as a result of the settlement conference the Municipality and NJBA reached a resolution ("Settlement"); the Settlement was placed on the record on March 26, 2025; and that the parties committed to circulating a settlement agreement and uploading it to eCourts, with counsel for the Municipality further agreeing to present the Settlement to the governing body of the Township of Hamilton for approval, with resolution confirming same to be uploaded to eCourts;

AND THE COURT, having received the Program Member's report dated March 31, 2025, since posted to the eCourts jacket for this matter at Trans. ID:

LCV20251011760, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the “Report”);

AND THE COURT, having been advised that (i) the Special Adjudicator has recommended acceptance of the Settlement, (ii) the Program Member has recommended acceptance of the Settlement as reasonable and in furtherance of the interests of low- and moderate-income households in the Municipality (collectively, the “Recommendations”), and that (iii) the Program Member further recommends that the Court adopt the findings and recommendations set forth in the Report and enter an Order implementing the terms of Settlement and thereby fix the “present need” and “prospective need” obligations of the Municipality for the Fourth Round housing cycle;

AND THE COURT, having reviewed and considered the Program Member’s Report and Recommendations, having been satisfied that an arm’s length Settlement was reached and entered into by and between the parties that is fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality, and for the reasons as stated herein; and for good cause shown:

IT IS on this 8th day of April 2025 **ORDERED** that:

1. The Program Member’s recommendation for approval of the settlement is **ACCEPTED** and **ADOPTED**.

2. **Present need**: The Municipality's "present need" obligation is fixed as 186 affordable units for the Fourth Round housing cycle.
3. **Prospective need**: The Municipality's "prospective need" obligation is fixed as 520 affordable units for the Fourth Round housing cycle.
4. The Petitioner is hereby authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.
5. All "challenges" to the Petitioner's Housing Element and Fair Share Plan as adopted by Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this matter, and as provided for and in accordance with Section III.B of AOC Directive #14-24.
6. This Order shall be deemed served on the Petitioner, Petitioner's counsel, and Challenger NJBA's counsel upon its posting by the Court

to the eCourts case jacket for this matter pursuant to Rules 1:5-1(a) and 1:32-2A.

/s/ Robert Lougy
ROBERT LOUGY, A.J.S.C.

<u> </u>	OPPOSED
<u> X </u>	UNOPPOSED

PER RULE 1:7-4, THE COURT PROVIDES THE FOLLOWING STATEMENT OF REASONS.

Having reviewed and considered the Program Member's Report and Recommendations as well as the terms of Settlement placed on the record by the parties before the Program Member on March 27, 2025, the Court is satisfied that an arm's length Settlement was reached and entered into by and between the parties, and that the terms of the Settlement attained are fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality. This Settlement disposes of all challenges filed.

Accordingly, the Court hereby adopts in full the Report and Recommendations of the Program Member and accepts the same for the detailed findings and reasons set forth therein. As a result, the Municipality retains all the protections of the above-referenced amendments to the FHA and continues to retain immunity from exclusionary zoning litigation. The Program retains

jurisdiction for the compliance phase in accordance with the statutory framework and AOC Directive #14-24.