

RESOLUTION NO. R-33-2025

**RESOLUTION OF THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF ELK
COMMITTING TO DCA'S 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, 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 Elk Township's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 17 and a Prospective Need Obligation of 214; 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, Elk Township accepts the DCA calculations of Elk Township's fair share obligations and commits to its fair share of 17 units present need and 214 units 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, Elk Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Elk Township 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, Elk Township 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 governing body of Elk Township finds that it is in the best interest of Elk 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 issued Directive #14-24, dated December 13, 2024; 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, Elk Township's affordable housing professionals have reviewed the Present Need calculations and Prospective Need calculations published by the DCA and have recommended that Elk Township adopt these calculations as Elk Township's 4th Round affordable housing obligations; and

WHEREAS, the Elk Township has determined that it is in the best interests of Elk Township to accept the Present Need and Prospective Need obligations as calculated by the DCA for the 4th Round.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of the Township of Elk, as follows:

1. The foregoing recitals are incorporated herein by reference as if fully set forth at length.
2. The Mayor and Township Committee have determined that it is in the best interests of the Township to set is 4th Round municipal affordable housing obligations pursuant to the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq. as follows:

Present Need = 17 units
Prospective Need = 214 units

3. The Township's calculation of need is subject to a reservation of the following rights including, without limitation,
 - a) The right to adjust the Township's calculation of need (present or prospective) based on a windshield survey, vacant land adjustment, sewer, water, regional planning inputs, durational adjustment or any combination thereof;
 - b) All rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the applicable provisions of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.;
 - c) All rights to take any contrary position in the event of a third-party challenge to the obligations;
 - d) The right to adjust the Township's calculation of need in the event that any future legislation adjusts the Township's 4th Round obligation, including any change to the methods of calculating the 4th Round obligation;
 - e) The right to adjust the Township's calculation of need in the event that any decisions of a court of competent jurisdiction from any pending or future litigation adjusts the Township's 4th Round obligation, including any change to the methods of calculating the 4th Round obligation;
 - f) All rights to review and adjust unmet Prior Round Need and compliance mechanisms during the review and adoption of the Housing Element and Fair Share Plan.

4. The Township Solicitor is directed to file a Complaint for Declaratory Judgment and to file a copy of this Resolution with the Affordable Housing Alternative Dispute Resolution Program as required by the Amended FHA.
5. The Township Clerk is directed to publish a copy of this Resolution on the Township's website and to take any and all action necessary to proceed with the preparation and adoption of the Township's Housing Element and Fair Share Plan for filing by June 30, 2025, in accordance with N.J.S.A. 304.1(f)(1)(2) & (f)(2)(a).

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

ADOPTED at a Regular Meeting of the Elk Township Committee held January 21, 2025.

TOWNSHIP OF ELK

BY: _____

CAROLYN D. K. SAMMONS, Mayor

ATTEST:

Debra R. Pine

DEBORA R. PINE, Township Clerk

ROLL CALL VOTE				
COMMITTEE	AYE	NAY	ABSTAIN	ABSENT
Cammarata	✓			
Cowan				✓
Lucas	✓			
Rambo	✓			
Sammons	✓			

CERTIFICATION

I hereby certify that the above resolution is a true copy of a resolution adopted by the Township Committee of the Township of Elk, County of Gloucester, State of New Jersey, at a meeting held by the same on January 21, 2025, in the Elk Township Municipal Building, 680 Whig Lane, Monroeville, New Jersey.

Debra R. Pine

DEBORA R. PINE
Clerk