

TOWNSHIP OF BERKELEY

Ocean County, New Jersey

RESOLUTION #25-88-R

A BINDING RESOLUTION OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, ACCEPTING THE DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AND DIRECTING SPECIAL MOUNT LAUREL COUNSEL TO TAKE APPROPRIATE ADDITIONAL ACTIONS

January 27, 2025

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 required 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 Berkeley's Round 4 (2025-2035) obligations as follows: a Present Need or "Rehabilitation Obligation" of 150 and a Prospective Need or "New Construction Obligation" of 209; 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 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, based on the foregoing, the Township of Berkeley accepts the DCA fair share calculations and commits to its Present Need of 150 and Prospective Need of 209 subject to any vacant land and/or durational adjustments it may seek as a component of the Township's Round 4 Housing Element and Fair Share Plan to be adopted, endorsed, and filed in accordance with the Amended FHA; and

WHEREAS, the Township of Berkeley reserves the right to take action to comply with any additional amendments to the FHA, judicial rulings, and/or future Administrative Directives; and

WHEREAS, if a third party challenges the calculations provided for in this Resolution, the Township of Berkeley reserves the right to take such position as it deems appropriate in response thereto, including a declaration that its Round 4 Present or Prospective Need obligations are lower than set forth herein; and

WHEREAS, in light of the above, the Mayor and Committee of the Township of Berkeley finds that it is in the best interest of the 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 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, Township of Berkeley seeks a certification of compliance with the FHA and, therefore, directs its Special Mount Laurel Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in the appropriate vicinage.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Governing Body of the Township of Berkeley as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Township of Berkeley hereby commits to the DCA Round 4 Present Need of 150 and the Round 4 Prospective Need of 209 as set forth herein, subject to all reservations of rights set forth above.
3. The Township of Berkeley hereby directs its Special Mount Laurel Counsel to file a declaratory judgment complaint in the appropriate vicinage within 48 hours after adoption this resolution.
4. The Township of Berkeley directs its Special Mount Laurel Counsel (a) to attach this resolution as an exhibit to the aforementioned declaratory judgment action; (b) to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate; and (c) to take any other actions as necessary and according to law.
5. This resolution shall take effect immediately, according to law.

Resolution No. **2025-89-R**

Offered By **Councilman Grosse**

Seconded by: **Councilman Bowens**

I, Karen Stallings, R.M.C., Township Clerk of the Township of Berkeley, do hereby certify that the foregoing Resolution was adopted at a Regular Meeting of the Berkeley Township Committee, held this 27th day of January, 2025 and in witness whereof I have hereunder set my hand and official seal on this date written.



KAREN STALLINGS, RMC, TOWNSHIP CLERK