

22131-25

Resolution by Commissioner DeMarco, seconded by Commissioner Haggerty

TOWNSHIP OF
LYNDHURST COUNTY OF
BERGEN STATE OF NEW
JERSEY

RESOLUTION REGARDING THE TOWNSHIP OF LYNDHURST'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 for Round Four (4) 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 Lyndhurst's ("Township") Fourth (4th) Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of ninety-one (91) and a Prospective Need (New Construction) Obligation of three hundred sixty-six (366); 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, 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 through its affordable housing planner, Neglia Engineering, 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 DCA's Land Capacity layers on the GIS, the Township has determined that a number of the lands identified by the DCA are not developable and must be excluded from the Land Capacity Factor because they are located in the New Jersey Meadowlands District over which the Township does not have any jurisdiction over; and,

WHEREAS, and the Township seeks to comply with a Present Need Obligation of ninety-one (91), as determined by the DCA, however, the Township's Prospective Need Obligation must be revised to three hundred fifty-seven (357), from the three hundred sixty-six (366) 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 or Prospective Need Obligations should be lower than as described herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Township of Lyndhurst, County of Bergen, State of New Jersey that the Township hereby seeks to comply with a fair share Present Need (Rehabilitation) Obligation of ninety-one (91), as determined by the DCA, and a Prospective Need (New Construction) Obligation of three hundred fifty-seven (357), 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, Bergen 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,

