

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

**RESOLUTION COMMITTING THE BOROUGH OF CAPE MAY POINT TO
COMPLY WITH DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT
NEED AND PROSPECTIVE NEED NUMBERS**

RESOLUTION 29-25

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 the Borough of Cape May Point's ("Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 5; 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 Borough accepts the DCA calculations of the Borough's fair share obligations and commits to its fair share of 0 units present need and 5 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, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough 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, the Borough 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, considering the above, the Commissioners of the Borough of Cape May Point finds that it is in the best interest of the Borough 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, seeks a certification of compliance with the FHA and, therefore, directs its legal counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Cape May County.

NOW, THEREFORE, BE IT RESOLVED on this 28 day of January, 2025, by the Commissioners of the Borough of Cape May Point as follows:

1. All the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Borough of Cape May Point hereby commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 5 units described in this resolution, subject to all reservations of rights set forth above.
3. The Borough of Cape May Point hereby directs its legal counsel to file a declaratory judgment complaint in Cape May County within 48 hours after adoption this resolution, attaching this resolution.
4. The Borough of Cape May Point authorizes its legal counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. This resolution shall take effect immediately, according to law.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Geiger			X			
vanHeeswyk	X		X			
Yunghans		X	X			

CERTIFICATION

I, Elaine Wallace, Clerk of the Borough of Cape May Point, County of Cape May, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Commissioners of the Borough of Cape May Point at a meeting held on January 28, 2025.

Elaine Wallace

Elaine Wallace, Borough Clerk