

HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

BOROUGH OF ENGLEWOOD CLIFFS MASTER PLAN



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The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12.

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THE BOROUGH OF ENGLEWOOD CLIFFS HOUSING ELEMENT AND FAIR SHARE PLAN

I. INTRODUCTION

This document is presented in two parts; which include (i) the Borough of Englewood Cliffs Master Plan Housing Element and (ii) the Borough of Englewood Cliffs Fair Share Plan. This Housing Element and Fair Share Plan ("HEFSP") addresses the Borough's compliance with the Municipal Land Use Law ("MLUL"), relevant Uniform Housing Affordability Controls ("UHAC") regulations, the requirements of the Uniform Housing Affordability Controls ("UHAC") regulations, the requirements of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) as amended by the A4/S50 legislation signed into law on March 20, 2024, and other applicable law.

The Master Plan Housing Element will examine the Borough's demographic, population, and employment characteristics, along with the Borough's housing stock and development trends throughout the decades. A Housing Plan, according to the MLUL N.J.S.A. 40:55D-28b(3), must include, but is not limited to, residential standards and proposals for the construction and improvement of housing. According to N.J.S.A. 52:27D-310, the Housing Element shall contain at least the following:

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (N.J.S.A. 52:27D-304.1);
- A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (N.J.S.A. 52:27D-329.20);

- For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (N.J.S.A. 13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

The Fourth Round Housing Element and Fair Share Plan reiterates how the Borough complied with its Third Round affordable housing obligations under the Borough's Court-approved Third Round Housing Element and Fair Share Plan and Third Round Final Judgment of Compliance and Repose ("JOR"), entered on December 22, 2020 (attached hereto as *Appendix K*), and also addresses how the Borough intends to meet its fair share obligations for the Fourth Round as adopted by the Borough in its binding resolution on January 28, 2025 (attached hereto as *Appendix A*), and affirmed by Court in its Order entered on DATE¹ (attached hereto as *Appendix C*). The Housing Element and Fair Share Plan is part of the Borough of Englewood Cliffs' request via its Declaratory Judgment Complaint filed January 30, 2025 (attached hereto as *Appendix B*) to acquire compliance certification from the Affordable Housing Dispute Resolution Program ("the Program") and will include the projects and strategies addressing the Borough's affordable housing obligations.

II. BOROUGH OF ENGLEWOOD CLIFFS FOURTH ROUND HOUSING ELEMENT

A. OVERVIEW

This Fourth Round Housing Element and Fair Share Plan has been prepared in response to the requirements set forth in the amendments to the Fair Housing Act known as Bill A4/S50 ("FHA Amendments") signed into law on March 20, 2024. The law reformed municipal responsibilities regarding the provision of affordable housing for the fourth round and beyond in 10-year rounds of housing obligations beginning on July 1, 2025. The changes and regulations for the FHA Amendments are further explained in Section II.D and Section II.E below.

In accordance with the Municipal Land Use Law ("MLUL") at N.J.S.A. 40:55D-28b(3), this Fourth Round Housing Element and Fair Share Plan ("HEFSP") has been prepared pursuant to N.J.S.A. 52:27D-310, which specifies that the HEFSP must include a "determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (N.J.S.A. 52:27D-

¹ The Court Order fixing the Borough's Fourth Round affordable housing obligations has not yet been issued at the time of the preparation of this Housing Element and Fair Share Plan. Once provided, the Court Order will be attached as an appendix to this Housing Element and Fair Share Plan.

304.1).” In accordance with the requirements of section 3 of P.L.2024, c.2 (N.J.S.A. 52:27D-304.1), this Fourth Round Housing Element and Fair Share Plan addresses its affordable housing obligations for the Prior Round, the Third Round, and the Fourth Round. The Borough’s Fourth Round numbers have been established via the Borough resolution adopted on January 28, 2025 (see *Appendix A*) and memorialized by the Court on behalf of the Program in its Order (see *Appendix C*).² The Fourth Round Housing Element and Fair Share Plan has also been prepared to comply with all requirements of the FHA, applicable COAH and UHAC regulations, and relevant Mount Laurel case law.

B. AFFORDABLE HOUSING HISTORY PRIOR TO THE FOURTH ROUND

New Jersey affordable housing law began with the New Jersey Supreme Court’s (hereinafter the “Supreme Court”) creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as “Mount Laurel I”. In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality “must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there”, including those of low and moderate income. Thus, the Supreme Court in its Mount Laurel I decision ruled that municipalities should not use their zoning powers to prevent the potential for the development of affordable housing.

Displeased with the municipal response to Mount Laurel I, the NJ Supreme Court issued a second Mount Laurel decision entitled So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) (“Mount Laurel II”). Mount Laurel II established a whole new body of procedural and substantive laws to advance the Mount Laurel doctrine. The Court established a standard pursuant to which developers could secure a builder’s remedy against exclusionary municipalities. Pursuant to that standard, a successful builder’s remedy plaintiff could secure the right to construct housing at much higher densities than a municipality otherwise would allow provided that the developer reserve 20 percent of the units for low and moderate income households and that the developer’s proposed project is not clearly contrary to sound land use planning. Developers filed over a hundred builder’s remedy lawsuits pursuant to Mount Laurel II creating pressure for a legislative solution. In addition, Judge Serpentelli decided AMG Realty Co. v. Warren Tp., 207 N.J.Super. 388 (Law 1984) establishing a fair share formula that generated very substantial fair share obligations based upon Mount Laurel II.

Responding to the flood of builder’s remedy litigation generated by the Mount Laurel II decision and the high fair share obligations generated by the AMG fair share formula, the State Legislature passed the Fair Housing Act (hereinafter “FHA”) in 1985. The Supreme Court upheld the constitutionality of the FHA in Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986), commonly referred to as “Mount Laurel III”.

The FHA created COAH, and required COAH to adopt criteria and guidelines not only to establish a fair share formula, but also to establish various means by which a municipality could adjust its fair share based upon credits, adjustments and other factors within COAH’s discretion. The FHA also required COAH to adopt criteria and guidelines to identify the techniques available to a municipality to meet its obligation. The FHA included a process for municipalities to obtain

² The Court Order fixing the Borough’s Fourth Round affordable housing obligations has not yet been issued at the time of the preparation of this Housing Element and Fair Share Plan. Once provided, the Court Order will be attached as an appendix to this Housing Element and Fair Share Plan.

Substantive Certification, which, if granted by COAH, would protect municipalities against an exclusionary zoning lawsuit for a defined period of time. The FHA also provided a means by which a municipality in an exclusionary zoning case at that time could seek to transfer its case to the newly created state agency, COAH. Finally, the FHA established an administrative process by which a municipality could bring itself under COAH's jurisdiction and comply "without litigation" N.J.S.A. 52:27D-303.

To implement the FHA requirements, COAH adopted a series of regulations. COAH adopted Round One regulations in 1986. In Round 1, COAH adopted regulations establishing a fair share formula by which any municipality could ascertain its fair share in the first instance. COAH also adopted regulations to enable municipalities with insufficient land to adjust the number generated by the formula to the number of units that could realistically be achieved through traditional inclusionary zoning, i.e., rezoning suitable sites at densities of at least 6 units per acre with a 20 percent set-aside. The adjusted fair share became the municipality's fair share and COAH imposed no obligation on the municipality beyond its fair share.

COAH adopted Round 2 regulations in 1994. As in Round 1, COAH adopted regulations (a) by which all municipalities could ascertain the number generated by a fair share formula and (b) by which land-poor municipalities could obtain an adjustment to the number generated by the formula. COAH labelled the adjusted number the "realistic development potential" or "RDP" and COAH labeled the difference between the number generated by the formula and the RDP as the "unmet need."

COAH should have adopted Third Round regulations in 1999 when the Round 2 rules were set to expire. However, COAH did not adopt the first iteration of Third Round rules until 2004. In 2007, the Appellate Division affirmed some of COAH's 2004 Third Round rules, but invalidated others. See In Re Adoption of N.J.A.C. 5:94 & 5:95, 390 N.J. Super. 1 (App. Div. 2007). The opinion remanded the matter to COAH for adoption of new regulations compliant with its decision and gave the agency six months to do so.

After the Appellate Division gave COAH two extensions of the six-month deadline, COAH finally adopted a second set of Third Round rules in September of 2008. Many municipalities submitted Third Round affordable housing plans to COAH and to courts for approval in December of 2008 based upon this second version of Third Round regulations. However, on October 8, 2010, the Appellate Division concluded that COAH's new regulations suffered from many of the same deficiencies as the first set of Third Round rules. Consequently, it invalidated substantial portions of the 2008 Third Round regulations. See In re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010). Municipalities appealed that decision to the New Jersey Supreme Court, which affirmed the Appellate Division's invalidation of several of the regulations COAH adopted in 2008. The Supreme Court directed COAH to use an approach to fair share methodologies similar to the formula used in Rounds 1 and 2 and not to take a "growth share" approach to the fair share methodology. The Supreme Court also directed COAH to adopt on an expedited basis a third version of Round 3 regulations that complied with its decision.

Frustrated with the lack of movement by COAH to adopt a third version of Round 3 regulations compliant with its decision, the Supreme Court issued an order on March 14, 2014, which required COAH to adopt new Third Round regulations by October 22, 2014. COAH proposed the third version of Third Round regulations on April 30, 2014. Unfortunately, in October of 2014, the COAH Board deadlocked 3-3 when voting to adopt the third version of Round 3 regulations. COAH never

made any effort to overcome the deadlock and, consequently, COAH never adopted Round 3 regulations for a third time.

On March 10, 2015, in response to COAH's failure to adopt round 3 regulations, the Supreme Court issued Mount Laurel IV. In this decision, the Court (1) found that COAH had violated the March 14, 2014 Order by failing to adopt new Third Round regulations by October 22, 2014, (2) held that, without new Third Round regulations, COAH could not process municipalities' petitions for substantive certification, (3) directed trial courts to assume COAH's functions, and (4) authorized municipalities under COAH's jurisdiction to file Declaratory Judgment Actions along with a motion for Temporary Immunity between June 8, 2015 and July 8, 2015, or risk exposure to Builder's Remedy lawsuits.

In Mount Laurel IV, the Supreme Court declined to endorse a specific fair share methodology to calculate the third round affordable housing obligations of the municipalities. Instead, the Supreme Court provided some guidance to the 15 Mount Laurel Judges (one in each vicinage) and left the determination for an appropriate fair share formula to these judges. The Court also labeled municipalities that had participated in the COAH process at the point it issued its decision, but had not yet secured COAH's approval of their affordable housing plans as participating municipalities. Pursuant to the new procedure it established, the Court ruled that the trial judges presiding over these Mount Laurel cases treat these municipalities in a similar way to the past - how COAH treated municipalities that had been in builder's remedy litigation at that time the Legislature enacted the FHA and thereafter secured a transfer of their case from the court to COAH, pursuant to this legislation. Such municipalities secured enormous protections from developers seeking to dictate how the municipalities satisfied their obligations.

On March 20, 2024, Governor Murphy signed into law affordable housing bill A4/S50, which amended the FHA. The FHA Amendments established new guidelines for determining and regulating the affordable housing obligations of New Jersey municipalities for the Fourth Round and subsequent 10-year rounds as mandated by the Mount Laurel Doctrine and the FHA. The changes and regulations for the FHA Amendments are further explained in Section II.D and Section II.E below. This Housing Element and Fair Share Plan has therefore been prepared to demonstrate how the Borough intends to meet its fair share obligations for the Fourth Round in accordance with the FHA Amendments and applicable COAH and UHAC regulations, as well as relevant Mount Laurel case law.

C. SUMMARY OF ENGLEWOOD CLIFFS' PAST AFFORDABLE HOUSING HISTORY & ACTIVITIES

On March 2, 1995, in response to the Round 2 regulations COAH adopted in 1994, the Borough of Englewood Cliffs filed its Housing Element and Fair Share Plan with COAH and petitioned COAH for approval of that plan. In response to the Borough's petition, COAH determined that the Borough had a realistic development potential of 4 units and accepted the Borough's proposal for satisfying the RDP of 4. However, COAH also determined that the Borough had an obligation to satisfy some portion of its "unmet need" obligation. The unmet need was 215: the difference between the number generated by the fair share formula (219) and the RDP (4). To address a portion of the unmet need, COAH required the Borough to adopt an overlay zone to rezone an approximately 25-acre parcel, known as the Prentice Hall site, at a density of 6 units per acre with a 20 percent set-aside. The Borough did not adopt the overlay zone on the Prentice Hall site.

In 1997, because of the Borough's not adopting an overlay zone on the Prentice Hall site, COAH denied Englewood Cliffs' petition for substantive certification. As a result, instead of securing protection from exclusionary zoning lawsuits, the Borough remained exposed to such lawsuits.

On December 19, 2008, after COAH adopted the second iteration of COAH's third round regulations in 2008, the Planning Board adopted this HEFSP. On March 11, 2009, the Borough of Englewood Cliffs petitioned COAH for substantive certification for this plan. On April 2, 2009, COAH determined that the Borough's petition for substantive certification was complete. However, COAH never certified the Borough's plan because the Appellate Division invalidated the regulations upon which that plan was based before COAH acted on the Borough's petition for substantive certification. On October 16, 2006, COAH approved a development fee ordinance creating a dedicated revenue source for affordable housing and the Borough adopted the ordinance on December 20, 2006. As part of its March 11, 2009, petition for substantive certification, the Borough included a Spending Plan for COAH's approval, and on April 7, 2011, COAH approved the spending plan. The Borough remained under COAH's jurisdiction until it filed a Declaratory Judgment Action on July 1, 2015, in response to Mount Laurel IV.

In the Declaratory Judgment Action, the Borough prepared a Third Round Housing Element and Fair Share Plan dated December 10, 2018. The Planning Board adopted the HEFSP by Resolution 2019-01 on January 7, 2019, and the Borough Council endorsed the HEFSP by Resolution 19-51 on January 24, 2019. Afterwards, this matter was tried before the Hon. Christine A. Farrington, J.S.C. (ret'd, t/a) to determine the validity of the HEFSP, which resulted in a decision dated January 17, 2020 ("Trial Decision") in which Judge Farrington found that the plan was insufficient. Judge Farrington made various other decisions as well both before and after the Trial Decision that adversely affected the Borough.

On June 29, 2020, the Borough brought a motion to reconsider several of Judge Farrington's decisions; the parties fully briefed the issues, and the Court heard oral argument on the motion. However, before Judge Farrington issued her decision, the parties engaged in settlement discussions. An amended Third Round Housing Element and Fair Share Plan, dated November 13, 2020, was consequently prepared to implement these settlements. The amended Third Round Housing Element and Fair Share Plan was consequently adopted by the Planning Board and endorsed by Borough Council. On December 17, 2020, a duly-noticed Fairness and Compliance Hearing was held to entertain approval of the amended Third Round Housing Element and Fair Share Plan and the Settlement Agreements between the Borough and Fair Share Housing Center ("FSHC") and 800 Sylvan Avenue LLC. On December 22, 2020, the Court issued a Final Judgment of Compliance and Repose for the Borough (see *Appendix K*), which approved the amended Third Round HEFSP and its supporting documents, and secured immunity for the Borough from all Mount Laurel lawsuits, including but not limited to, Builders Remedy lawsuits, until July 1, 2025.

In response to the FHA Amendments regulating the Fourth Round and beyond, the Borough adopted Resolution No. 25-27 on January 28, 2025, committing to its Fourth Round present need and prospective need obligations, beginning on July 1, 2025 (see *Appendix A*). On January 30, 2025, pursuant to the Administrative Office of the Courts' Directive No. 14-24, the Borough filed a Declaratory Judgment Action in Superior Court (see *Appendix B*), Docket No. BER-L-775-25, requesting that the Program: (1) approve its Round 4 obligations set forth in its January 28, 2025 binding resolution; (2) approve its Round 4 HEFSP; and (3) continue the Borough's immunity from Mount Laurel related lawsuits, as granted by the Court in Round 3.

No objections to the Borough's adopted Round 4 obligations were received by the statutory deadline of February 28, 2025, so according to the FHA Amendments, the Borough's adopted obligations set forth in its binding resolution are automatically set as the Borough's Round 4 obligations. In an Order entered on DATE³, the Court memorialized the Borough's present and prospective need obligations on behalf of the Program, therefore setting the Borough's prospective need at 329 and its present need (also known as rehabilitation obligation) at zero (0) for the Fourth Round (see Appendix C).

Leading up to the Fourth Round, the Borough has assessed the status of the affordable units to be provided in accordance with its Court-approved Third Round Housing Element and Fair Share Plan. The projects and mechanisms used towards the Borough's compliance with the Third Round HEFSP are detailed further in Section III of this HEFSP.

D. FOURTH ROUND OF AFFORDABLE HOUSING BACKGROUND

On March 20, 2024, Governor Murphy signed into law affordable housing bill A4/S50. The law established new guidelines for determining and regulating the affordable housing obligations of New Jersey municipalities for the fourth 10-year round as mandated by the Mount Laurel Doctrine and the FHA. This section outlines the key provisions instituted by the FHA Amendments.

Major Items of the FHA Amendments

- The Council on Affordable Housing ("COAH") is abolished, and its regulatory powers and functions are transferred to the Department of Community Affairs ("DCA") and the Administrative Office of Courts ("AOC").
- The DCA is responsible for calculating the regional need and municipal present and prospective fair share obligation for each municipality using the methodology established in sections 6 and 7 of A4/S50. The March 8, 2018 Superior Court, Law Division, Mercer County, In re Application of Municipality of Princeton (also known as the "Jacobson opinion") serves as the basis for any datasets or methodologies not directly addressed in A4/S50. This Fourth Round methodology is further explained in subsection d below.
- Per Section 2 of P.L.1985, c.222 (C.52:27D-302), as amended by the new law, "the changes made to affordable housing methodologies, obligations, and fair share plans, as determined to be a necessity by the Legislature, through the enactment of [A4/S50] are made with the intention of furthering consistency with the State Development and Redevelopment Plan."
- A municipality will still be permitted to conduct a vacant land adjustment (VLA).
- A municipality may take into consideration the DCA calculations in determining its present and prospective obligation, but the DCA calculations are not binding on any municipality. Each municipality establishes its own obligation number, and a municipality may deviate from DCA's calculations in determining its obligation, provided that it adheres to the methodology established by A4/S50.
- The Affordable Housing Dispute Resolution Program ("Program") is established within the AOC and is responsible for handling any dispute regarding a municipality's determination of and/or compliance with its fair share obligation. The Administrative Director of the

³ The Court Order fixing the Borough's Fourth Round affordable housing obligations has not yet been issued at the time of the preparation of this Housing Element and Fair Share Plan. Once provided, the Court Order will be attached as an appendix to this Housing Element and Fair Share Plan.

Courts makes appointments to the Program, which consists of 3-7 retired Mount Laurel judges. These judges include Hon. Thomas C. Miller (chair), Hon. Ronald E. Bookbinder, Hon. Thomas F. Brogan, Hon. Stephan C. Hansbury, Hon. Mary C. Jacobson, Hon. Julio L. Mendez, and Hon. Paulette M. Sapp-Peterson.

- The availability of bonus credits has been expanded but credits remain capped. Notable credit provisions include:
 - More than one type of bonus credit may not be received for the same unit.
 - A maximum of 25% of a municipality's prospective need obligation may be satisfied by bonus credits.
 - The rental bonus credit is eliminated.
 - A summary of the types of bonus credits is provided in the table below:

Table 1: Fourth Round Bonus Credits	
Description	Bonus
Special Needs or Supportive Housing Units	1.0 bonus credit for each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing.
100% Affordable Developments with Municipal Contribution of Land or Funds	1.0 bonus credit for each unit of low- or moderate-income housing in a 100% affordable housing project for which the municipality contributes to the cost of the project. This contribution can either be real property or contributions from the municipal affordable housing trust fund that covers no less than 3% of the project costs.
Market-to-Affordable	1.0 bonus credit for each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from market rate to affordable. A municipality may only rely on this bonus credit as part of its fair share plan and housing element if the municipality demonstrates that a commitment to follow through with this market to affordable agreement has been made and: (a) this agreement has been signed by the property owner; or (b) the municipality has obtained ownership of the property.
Non-Profit Partnership for For-Sale Housing	0.5 bonus credit for each unit of low- or moderate-income ownership unit created in partnership with a non-profit housing developer.
Proximity to Transit	0.5 bonus credit for each unit of low- or moderate-income housing located within a 0.5 mile radius (or 1 mile radius if located in a Garden State Growth Zone) surrounding a NJ Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations.
Redevelopment	0.5 bonus credit for each unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.

Age-Restricted Units (with 10% Cap)	0.5 bonus credit for a unit of age-restricted housing (Bonus credit only applicable to 10% of all age-restricted housing built that count towards the municipality's affordable housing obligation).
Family Housing	0.5 bonus credit for each unit of low- or moderate-income family housing with at least three bedrooms above the minimum number required by the bedroom distribution. This bonus credit shall be calculated by taking into account the full municipal fair share plan and housing element, and the number of units with at least three bedrooms required for projects satisfying the minimum 50 percent family housing requirements.
Very Low-Income Units Beyond Minimum	0.5 bonus credit for each unit of very low-income housing for families above the 13% of units required to be preserved for very low-income housing.
Extension of Affordability Controls	0.5 bonus credit for each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term, and the municipality contributes funding towards the costs necessary for this preservation.

- A municipality must adopt and file with the Program and the Court a Housing Element and Fair Share Plan, along with drafts of the appropriate zoning and other ordinances and resolutions implementing its present and prospective obligation by June 30, 2025. The Housing Element and Fair Share Plan must assess the degree to which the municipality has complied with its obligations for the prior three rounds and determine whether the municipality has credits in excess of its prior round obligations. If any units are determined to be unfulfilled from prior rounds, the Plan must address how this unmet obligation will be fulfilled, as well as explain how it plans to meet its Fourth Round obligation. The Plan must also include a spending plan for current funds in the municipal affordable housing trust fund and projected funds towards the round.
- The law establishes several limitations on how units may be counted towards fulfilling a municipality's fair share obligation:
 - A maximum of 30% of the units counted toward the prospective need obligation may be age-restricted units, exclusive of bonus credits.
 - A minimum of 50% of the units used toward the prospective need obligation, exclusive of bonus credits, must be available to families with children.
 - A minimum of 25% of the units used toward the prospective need obligation, exclusive of bonus credits, must be rental units and at least half of that number must be available to families with children.
 - A minimum of 13% of affordable housing units must be available to very low-income households and at least half of that number must be available to families with children.
 - A maximum of 10% of a municipality's fair share obligation may be counted by transitional housing credits.

- A municipality may lower its prospective need obligation to prevent an obligation of more than 1,000 housing units or a number exceeding 20% of the total number of households in the municipality.
- The law increases the minimum period requiring affordability controls to 40 years for rental units and maintains a 30-year period for for-sale units. The minimum requirement for affordability controls cannot be reduced.
- The law establishes new development fee collection, expenditure and monitoring rules. The amended FHA also establishes many deadlines, including but not limited to, the submission of a Fourth Round Housing Element and Fair Share Plan by June 30, 2025, and any objections being filed by August 31, 2025.

E. FOURTH ROUND METHODOLOGY

Per N.J. Stat. § 52:27D-304.1.d, “For the fourth round of affordable housing obligations, the [Department of Community Affairs] shall prepare and submit a report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature providing a report on the calculations of regional need and municipal obligations for each region of the State within the earlier of seven months following the effective date of P.L.2024, c.2 (C.52:27D-304.1 et al.) or December 1, 2024.” On October 18, 2024, the Department of Community Affairs (DCA) released a report titled “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background,” inclusive of a calculation spreadsheet, which detailed the datasets and calculations used to generate the affordable housing obligation for each municipality within New Jersey for the Fourth Round. Per this report, the Borough of Englewood Cliffs was calculated to have a present need of 0 units and a prospective need of 329 units for the Fourth Round. The subsections below outline the methodology for calculating the Borough’s Fourth Round affordable housing obligation per the DCA report and in accordance with the FHA Amendments.

Present Need

Per the amended FHA, “A municipality’s present need obligation shall be determined by estimating the existing deficient housing units currently occupied by low- and moderate-income households within the municipality, following a methodology comparable to the methodology used to determine third round present need, through the use of datasets made available through the federal decennial census and the American Community Survey, including the Comprehensive Housing Affordability Strategy dataset thereof” (N.J.S.A. 52:27D-304.2). P.L.2024, c.2 further defines “deficient housing units” as “housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities” (N.J.S.A. 52:27D-304).

In the Third Round, municipal present need calculations were based on the number of housing units lacking complete kitchen facilities, the number of units lacking complete plumbing facilities, and the number of overcrowded units. The present need calculations for the Fourth Round conducted by the DCA similarly use datasets measuring these three factors, but as explained in their report, “The US Department of Housing and Urban Development (HUD) and the US Census Bureau publish separate tables on housing age, lack of plumbing facilities, lack of kitchen facilities, and overcrowding. However, there is no data source that reports the number of units that meet any one of those three conditions. Therefore, this number must be estimated using data from existing tables, with measures taken to account for overlap and to narrow the scope to deficient housing units occupied by low- and moderate-income [[LMI]] households.” The DCA therefore used a combination of the latest data

from HUD's Comprehensive Housing Affordability Strategy (CHAS) LMI dataset corresponding to the latest Census Bureau American Community Survey (ACS) data (which was 2017-2021 5 Year Estimates at the time of the report's release), data from the IPUMS Center for Data Integration, and the ACS Public Data Microdata Sample (PUMS) at the Public Use Microdata Area (PUMA) level to estimate the number of substandard/deficient low- and moderate-income occupied units ("present need") for each municipality in New Jersey.

Per the methodology outlined above and described in further detail in the DCA report, the Fourth Round present need obligation for the Borough of Englewood Cliffs was calculated as 0.

Prospective Need

The statewide obligation for the Fourth Round has been calculated as 84,698. This obligation is distributed among the State's municipalities, excluding Qualified Urban Aid municipalities.

A municipality's present need obligation is determined by estimating the existing deficient housing currently occupied by low-and moderate- income households within the Housing Region to which it belongs. Per the Fourth Round law, the State is broken into six regions as follows:

Housing Region	Counties
1	Bergen, Hudson, Passaic, and Sussex
2	Essex, Morris, Union, and Warren
3	Hunterdon, Middlesex, and Somerset
4	Mercer, Monmouth, and Ocean
5	Burlington, Camden, and Gloucester
6	Atlantic, Cape May, Cumberland, and Salem

A municipality's Fourth Round prospective need obligation is calculated by multiplying its average allocation factor to the total prospective need of its corresponding Housing Region.

The average allocation factor is the average of three measures indicative of a municipality's capacity/potential to address the regional prospective need: the equalized nonresidential valuation factor, the income capacity factor, and the land capacity factor.

The prospective need for each Housing Region was calculated by dividing the change in the number of households within each Housing Region between the 2010 Census and 2020 Census by 2.5, which is the assumed low-and moderate-income household growth per the Fourth Round law.

The Borough of Englewood Cliffs is in Housing Region 1, which consists of Bergen County, Hudson County, Passaic County, and Sussex County. The regional prospective need for Housing Region 1 was calculated as 27,743, and the Borough's average allocation factor was calculated as 1.185%. The regional need of 27,743 multiplied by the Borough's average allocation factor of 1.185% therefore resulted in a Fourth Round prospective need obligation calculation of 329.

Equalized Nonresidential Valuation Factor

The equalized nonresidential valuation factor is one of the three components of the average allocation factor for each municipality. The equalized nonresidential valuation factor is

representative of a municipality's share of the change in nonresidential property value within its Housing Region.

This factor was calculated as follows:

1. The valuations of commercial properties and industrial properties in each municipality in 2023, per data from the NJ Division of Local Government Services, were summed and then divided by the 2023 State Equalization Table Average Ratio corresponding with the municipality to obtain a total equalized nonresidential valuation for 2023.
2. The valuations of commercial properties and industrial properties in each municipality in 1999, per data from the NJ Division of Local Government Services, were summed and then divided by the 1999 State Equalization Table Average Ratio corresponding with the municipality to obtain a total equalized nonresidential valuation for 1999.
3. The difference in total equalized nonresidential valuation from 1999-2023 was calculated for each municipality.
4. The difference in total nonresidential valuation from 1999-2023 was summed for all municipalities (excluding Qualified Urban Aid municipalities) within each Housing Region.
5. The difference in total nonresidential valuation from 1999-2023 for each municipality was divided by the sum of differences in total nonresidential valuation from 1999-2023 for its corresponding Housing Region to compute the municipality's share of the regional nonresidential valuation change from 1999-2023.

The Borough's equalized nonresidential valuation factor was calculated as 1.78%.

Income Capacity Factor

The second component of the average allocation factor for each municipality is the income capacity factor. The income capacity factor measures the degree to which a municipality's median household income differs from an income floor of \$100 below the lowest median household income in its Housing Region. The Borough of Englewood Cliffs is in Housing Region 1 and therefore was compared to an income floor of \$51,992 (\$100 below the lowest median household income in Housing Region 1 of \$52,092, which belongs to the City of Paterson).

The income capacity factor was calculated by averaging two measures:

1. The municipal share of the sum of the differences for each municipality in the Housing Region (excluding Qualified Urban Aid municipalities) from the Housing Region's income floor.
2. The municipal share of the sum of the differences for each municipality in the Housing Region (excluding Qualified Urban Aid municipalities) from the Housing Region's income floor, weighted by the number of households in each municipality.

Data for median household income and number of households was sourced from the most recent American Community Survey (ACS) Five-Year estimates, as mandated by the Fourth Round law, which is found in Table S1903 of the Census Bureau's American Community Survey 2018-22 5-Year Estimates.

The Borough's income capacity factor was calculated as 1.41% per the DCA report.

Land Capacity Factor

The third component of the average allocation factor for each municipality is the land capacity factor. The land capacity factor indicates the percentage share of total “developable” land in a Housing Region accounted for by each municipality within that Region, excluding land area corresponding to Qualified Urban Aid municipalities. The DCA conducted a GIS analysis to identify the “developable” land within the state using several publicly-available datasets, including but not limited to 2020 land use/land cover (LULC) data, New Jersey State Plan Planning Areas weighted by area type, statewide parcel data, open space and preserved farmland, category 1 waterways and wetlands, steep slopes, and open waters.

The steps below provide a summary of the methodology used to identify the vacant land in the state, and consequently identify each municipality’s share of developable land within its corresponding Housing Region.

1. Weights were applied to all New Jersey State Plan Planning Areas as specified in the Fourth Round Law.
2. The layer of weighted Planning Areas was merged with land use/land cover (LULC) data for the entire state sourced from 2020 aerial imagery. 18 different types of LULC, such as cropland and pastureland, deciduous forest, and coniferous forest, were identified and extracted as “vacant, developable land” from this merged dataset.
3. Of these areas identified as “developable” from the merged dataset, areas without underlying parcel data and areas with MOD-IV Property Tax data with property class codes for residential, commercial, industrial, apartment, railroad, and school uses were removed to prevent rights-of-way, tree-covered rear yards on residential properties and buffer areas on non-residential development from being included in the “developable” land calculation.
4. Municipally-reported construction permit data to the DCA was used to remove properties otherwise identified as vacant through the LULC analysis.
5. Areas mapped as open space, preserved farmland, category 1 waterways and wetlands (and associated buffers based on special resource area restrictions) were removed from the “developable” land dataset.
6. Using 10 foot digital elevation LiDAR data, steep slope areas exceeding 15% and steep slope areas consisting of 5,000 square feet or less were removed from the “developable” land dataset.
7. DCA reviewed an unspecified 22,000 vacant parcels to further remove homeowner association common areas, detention basins, and road and utility rights of way.
8. After the removal of all the aforementioned layers from the “developable” land dataset, remaining “slivers” of land with an area of 2,500 square feet or less were also removed due to their inability to support any kind of development.
9. The remaining land was identified as “developable” land and was summed based on the limits of each Housing Region and its corresponding municipalities.
10. The municipality’s percentage of total identified “developable” land within its Housing Region constitutes its land capacity factor.

Through this analysis, the DCA reported 7.053 acres of developable land in the Borough of Englewood Cliffs and 1,979.764 acres of developable land in Housing Region 1 (excluding Qualified Urban Aid municipalities), therefore computing a land capacity factor of 0.36% for the Borough.

DCA Calculated Fourth Round Obligation

Given the calculations of the Borough's equalized nonresidential valuation factor as 1.78%, income capacity factor as 1.41%, and land capacity factor as 0.36%, the average allocation factor for the Borough computes to 1.185%. The average allocation factor of 1.185% multiplied by the Housing Region 1 regional prospective need of 27,743 totals to a Fourth Round prospective need obligation of 329 for the Borough.

F. MUNICIPAL DETERMINATION OF FOURTH ROUND PRESENT NEED AND PROSPECTIVE NEED OBLIGATIONS

As per N.J.S.A. 52:27D-304.1, "[e]ach municipality shall determine its municipal present and prospective obligations in accordance with the formulas established in [N.J.S.A. 52:27D-304.2 - 304.3] and may take into consideration the calculations in the report published by the department." Furthermore, "For the fourth round of affordable housing obligations, this determination of present and prospective fair share obligation shall be made by binding resolution no later than January 31, 2025" (N.J.S.A. 52:27D-304.1). The Borough reviewed and evaluated the DCA's non-binding calculations of the Borough's Fourth Round present need and prospective need, and as provided in the Resolution No. 25-27 adopted by Borough Council on January 28, 2025 (see *Appendix A*), the Borough of Englewood Cliff's "commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 329 units" subject to all reservations of rights as specified in the Resolution. The Court memorialized the Borough's Fourth Round present and prospective need obligations on behalf of the Program in an Order. The Borough's plan for satisfying its adopted Fourth Round present need and prospective need obligations is detailed further in Section III of this Fourth Round HEFSP.

G. VACANT LAND ADJUSTMENT

Given municipal constraints on the amount of vacant land available for the development of affordable housing, the amended FHA, similarly to the Third Round, permits municipalities to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment ("VLA") for the Fourth Round follows the methodology established in the Municipal Adjustments Subchapter of COAH's Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in the Amended FHA. The application of the methodology for vacant land adjustments from COAH's Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions."

Most notably, the FHA Amendments added an additional requirement to the vacant land adjustment process: "Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so" (N.J.S.A. 52:27D-310.1).

In addressing its Third Round prospective need obligation, the Borough prepared a VLA, which was adopted as part of the Borough's Court-approved amended Third Round Housing Element and Fair Share Plan via the final JOR issued on December 22, 2020.

The Borough has also conducted a VLA for the Fourth Round, which is attached hereto as *Appendix L*. The Fourth Round VLA calculates a Realistic Development Potential ("RDP") of 10 units for the Borough for the Fourth Round, which is detailed in Table 3 below:

Table 2: RDP						
Borough of Englewood Cliffs						
Sites "Likely to Redevelop" Contributing to the Borough's RDP						
Block	Lot	Comments/Discussions	Net Developable Acreage	Density (du/ac)	Est. Total Units	RDP
201 & 205	10-14 & 1, 2, and 4	20-32 Sylvan Avenue & 4 Bayview Avenue; Cioffi Site	1.985	24.18	48	10
Total Units Based on Estimated Development Density					48	
Total RDP (20%)						10

The Borough's satisfaction of the 25% "likely to redevelop" requirement is addressed in the VLA attached in *Appendix L*.

H. HOUSING, DEMOGRAPHIC AND EMPLOYMENT INFORMATION

The Borough of Englewood Cliffs is located in eastern Bergen County, and, per 2020 Census data, has a population of 5,342 in a geographic land area of 2.089 square miles. The Palisades Interstate Park runs the length of Borough's frontage along the Hudson River. The Borough sits directly across the river from Fort Tryon Park and upper Manhattan. The Borough of Fort Lee and the George Washington Bridge are located directly south of Englewood Cliffs, while the Borough of Tenafly is located to the north. The City of Englewood comprises the entire western border of Englewood Cliffs.

The Borough has several local and regional routes that traverse through it, including the north/south directional Palisades Interstate Parkway and state highway 9W in the eastern portion of Englewood Cliffs. These two highways largely run parallel with one another. However, characteristically, 9W has signalized intersections and provides local access to properties along it, while the Palisades Interstate Parkway is an unsignalized, limited access highway. Several regionally important interstate and state highways merge at the foot of the George Washington Bridge to the south of the Borough's border in Fort Lee. The combination of roadways traversing the Borough and those located just south of the municipality provide excellent highway access for Borough residents to eastern Bergen County, the larger northern New Jersey region and New York City.

The following detailed Housing, Demographic, and Employment background addresses the components of a Housing Element required by the Fair Housing Act (N.J.S.A. 52:27D-310) and Municipal Land Use Law (N.J.S.A. 40:55D-28b(3) quoted above.

1. Analysis of Population and Demographics

The following tables look to analyze the population trends in Englewood Cliffs from the decennial Census and American Community Survey data. An analysis of population demographics in a target area can help a community to understand and plan for the range of people that live and work within its borders. Also, local population demographics understood in the context of and compared to the larger regional area provide a unique opportunity to understand larger geographic implications of present conditions and future local and regional opportunities. This demographic profile was broken down into functional areas including analyses of community demographics, housing stock, and employment data.

Table 3: Population 1930-2020 Borough of Englewood Cliffs		
Year	Total Population	% Change
1930	809	-
1940	888	9.8
1950	966	8.8
1960	2,913	201.6
1970	5,938	103.8
1980	5,698	-4.0
1990	5,634	-1.1
2000	5,322	-5.5
2010	5,281	-0.8
2020	5,342	1.2
Source: U.S. Bureau of the Census, 1930-2020 Decennial Censuses		

Population

Table 4 : Population 1990-2020 Borough of Englewood Cliffs and Bergen County				
Year	Englewood Cliffs	% Change	Bergen County	% Change
1980	5,698	-	845,385	-
1990	5,634	-1.1	825,380	-2.4
2000	5,322	-5.5	884,118	7.1
2010	5,281	-0.8	906,541	2.4
2020	5,342	1.2	955,732	5.6
Source: U.S. Bureau of the Census, 1980-2020 Decennial Censuses				

Englewood Cliffs is a developed municipality. According to the U.S. Census, 5,342 residents lived in Englewood Cliffs in 2020. Between 2000 and 2010 the municipality saw its population shrink by 41 residents, from 5,322 to 5,281, or 0.77%. This reduction in population is not a new or recent trend, and between 1990 and 2000, it is estimated that there was a decrease of 312 residents, or 5.5%. However, between 2010 and 2020, this trend appeared to have reversed; the population rose slightly from 5,281 residents to 5,342 residents, or an increase of 1.2%.

Table 1 depicts the population change since 1930, and shows that from 1930 to 1970, the Borough saw a significant increase in population. The numbers demonstrate that the population spiked mostly between the 1950s and 1970s, and subsequently the Borough saw a slight decrease in population between 1970 and 1980. Since the 1990s, the Borough has experienced minor fluctuations as increases and decreases in population.

Englewood Cliffs' largest increase in growth occurred from the 1950s to the 1970s. The Borough's population more than tripled between 1950 and 1960, and then more than doubled during the 1960s. The population stabilized in the 1970s and experienced a slight decline into the 1980s. In recent years, the Borough has experienced mostly slight declines in population, but 2020 Census data reflected a modest increase in population between 2010 and 2020.

From 1980 to 1990, Bergen County likewise saw a modest decline in population of 2.4%. However, unlike the Borough, Bergen County has seen steady increases in total population since 2000 (Table 2).

Age Characteristics

Understanding the age make up of a community is important when planning for new housing, resources, and the future of the Borough as a whole. Looking at a further breakdown of population data by age and sex, it shows that a municipality's population can be concentrated in specific age cohorts. Table 3 depicts that the population is skewed towards older cohorts, with the data showing people aged 0 to 19 comprising 22.5%, people aged 20-39 comprising 15.6%, people aged 40-59 comprising 28.3%, and people aged 60 or over comprising 33.5%. Thus, over 60% of the population are aged 40 or older.

Likewise, the data shows that the percentage of younger school children is larger than that of young professionals. Additionally, the median age in Englewood Cliffs is 49.0. Overall, Englewood Cliffs has a significant aging population.

Table 5 : Population by Sex and Age, 2020 Borough of Englewood Cliffs			
	All	Male	Female
Total 2020 Census Population	5,342	2,569	2,773
Under 5	208	113	95
5 to 9 years	336	178	158
10 to 14 years	366	186	180
15 to 19 years	294	158	136
20 to 24 years	234	122	112
25 to 29 years	196	100	96
30 to 34 years	134	71	63
35 to 39 years	270	120	150
40 to 44 years	336	148	188
45 to 49 years	385	175	210
50 to 54 years	389	194	195
55 to 59 years	403	205	198
60 to 64 years	385	182	203
65+	1,406	617	789
Median age (years)	49.0	47.6	50.0
Source: U.S. Bureau of the Census, 2020 Decennial Census			

Table 6 : Population by Age, 2000-2020
Borough of Englewood Cliffs and Bergen County

Age	2000				2010				2020			
	Englewood Cliffs		Bergen County		Englewood Cliffs		Bergen County		Englewood Cliffs		Bergen County	
	#	%	#	%	#	%	#	%	#	%	#	%
Under 5	304	5.7	55,363	6.3	252	4.8	50,281	5.6	208	3.9	48,025	5.0
5 to 17	797	15.0	147,691	16.7	886	16.8	154,124	17.0	902	16.9	144,418	15.1
18 to 24	301	5.7	58,728	6.6	244	4.6	67,253	7.4	328	6.1	84,607	8.8
25 to 44	1,274	23.9	270,628	30.6	1,056	20.0	234,181	25.9	936	17.6	238,562	24.9
45 to 64	1,475	27.7	216,888	24.5	1,571	29.7	262,174	28.9	1,562	29.2	270,842	28.4
65 & over	1,171	22.0	134,820	15.2	1,272	24.1	137,103	15.1	1,406	26.3	169,278	17.8
Total	5,322	100	884,118	100	5,281	100	905,116	100	5,342	100	955,732	100

Source: U.S. Census, 2000, 2010, and 2020.

Table 4 complements the data in Table 3 and further compares it to that of Bergen County as a whole. It depicts the steady increase in the number of children ages 5 to 17 in Englewood Cliffs from 2000 to 2020— from 15% to 16.8% to 16.9% respectively. Similarly, the number of over-65-year-olds has increased from 22% to 24.1% to 26.3. Interestingly, the number of 18- to 24-year-olds decreased from 5.7% in 2000 to 4.6% in 2010, but, for the first time in several decades, the population aged 18 to 24 increased to 6.1% from 2010 to 2020.

Comparatively, Bergen County also saw a steady increase in the 5 to 17 age cohort between 2000 and 2010, however between 2010 and 2020, this age cohort has experienced decline. There have been steady declines in the 25 to 34 age cohorts; however, the over-65 age cohort has reflected an increase from 2010 to 2020 after remaining steady around 15% for the county. Overall, decreases in the 25 to 34 age range at both the Borough and County level suggest that this area has had a difficult time attracting younger professionals and young families, and increases in the over-65 age cohort at both levels reflect an aging population in this area.

Race

Table 7 shows the racial breakdown of the population according to responses from the 2020 Decennial Census. Over 94% of the population responded as “One Race,” with 50% responding as Asian, 45% identifying as White, 2.2% identifying as Black or African American, 2.2% identifying as Some other Race, and 0.001% identifying as American Indian/Alaska Native.

The other 5.6% of respondents identified as “Two or More Races,” with the largest subgroup in that category being “White; Some other Race” with 160 respondents comprising 5.4%.

Table 7 : Race, 2020 Borough of Englewood Cliffs		
	#	%
One Race	5,043	94%
White	2,276	45%
Black or African American	111	2.2%
Hispanic or Latino	0	0.0
American Indian/Alaska Native	5	0.001%
Asian	2,538	50%
Native Hawaiian/Other Pacific Islander	0	0.0
Some Other Race	113	2.2%
Two or More Races	299	5.6%
White; American Indian and Alaska Native	4	0.01%
White; Asian	82	0.3%
White; Black or African American	20	0.1%
White; Some Other Race	160	5.4%
Total Population	5,342	100%
Source: U.S. Census, 2020		
Note: Percentages May Not Add Due To Rounding		

Household Size and Characteristics

In addition to population demographics, household size in relation to the population helps to characterize the Borough. Using Decennial Census data from 2000-2020, Table 6 below shows that the Average Household Size in Englewood Cliffs has been steadily decreasing from 2.91 to 2.88 to 2.78 between 2000 and 2020, which may be connected to the steady decrease in the population in the same time periods. Bergen County experienced a steady average household size of about 2.65 from 2000 to 2020, with slight increases each year. The household population and number of occupied housing units have likewise steadily increased over this time, suggesting that the household size has remained steady because new families of similar size are moving into the county. The county decreased from 3.30 persons per household in 1960 to 2.64 in 2000, a decline of 20 percent. Englewood Cliffs' household size has slowly and marginally declined between 2000 and 2020, as depicted in Table 6.

**Table 8 : Households and Population, 2000-2020
Borough of Englewood Cliffs and Bergen County**

	2000			2010			2020		
	HH Population	Occupied Housing Units	Avg HH Size	HH Population	Occupied Housing Units	Avg HH Size	HH Population	Occupied Housing Units	Avg HH Size
Englewood Cliffs	5,275	1,818	2.91	5,238	1,824	2.88	5,312	1,846	2.78
Bergen County	872,757	330,817	2.64	894,694	335,730	2.66	945,146	350,664	2.69

Source: U.S. Census, 2000, 2010, 2020.

Table 9 shows that the most common household size in Englewood Cliffs was 4 or more people, accounting for 33% of households, followed by households with 2 people, accounting for over 28.6% of households. Three person households make up 24% of households and the least common form of households is single person households, at 14.4% of households.

The American Community Survey was utilized to evaluate Englewood Cliffs income characteristics

Table 9 : Household Size, 2022 ACS, 5- Year Estimates Borough of Englewood Cliffs		
Household Size	Number of Households	Percent
1 Person	268	14.4
2 Persons	535	28.6
3 Persons	447	24.0
4 Persons or More	613	33.0
Total Occupied Housing Units	1,860	100%
Source: 2022 American Community Survey 5- Year Estimates		

compared to Bergen County as a whole. Table 8 demonstrates that the per capita income and the median household income in Englewood Cliffs, \$102,113 and \$213,261, are both higher than the County's of \$60,222 and \$118,714.

In addition to a higher per capita income, fewer Englewood Cliffs residents are living below the poverty level. Based on the 2022 5 Year Estimates from the American Community Survey

(Table 8) 2.2% of Englewood Cliffs residents compared to 5.2% Bergen County residents are living below the poverty level.

**Table 10 : Income Characteristics – 2022 ACS, 5- Year Estimates,
Borough of Englewood Cliffs and Bergen County**

	Borough of Englewood Cliffs	Bergen County	State of New Jersey
Median Household Income	\$213,261	\$118,714	\$97,126
Median Family Income	\$301,952	\$144,348	\$119,240
Per Capita Income	\$102,113	\$60,222	\$50,995
Percent of Persons Below Poverty Level	2.2%	5.2%	6.9%

Source: Selected Economic Characteristics, 2022 American Community Survey 5- Year Estimates

The income limits in Table 11 were produced by the Affordable Housing Professionals of New Jersey in 2024 to set the Affordable Housing Regional Income Limits. The table shows the very low income, low income, and moderate-income thresholds for Bergen County for each household size. Specific rows are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a).

Table 11 : Affordable Housing Professionals of New Jersey 2024, Affordable Housing Regional Income Limits Bergen County, New Jersey			
Household Size	Moderate Income	Low Income	Very Low Income
1 Person	\$67,431	\$42,144	\$25,286
1.5 Persons*	\$72,247	\$45,154	\$27,093
2 Persons	\$77,064	\$48,165	\$28,899
3 Persons	\$86,697	\$54,185	\$32,511
4 Persons	\$96,329	\$60,206	\$36,124
4.5 Persons*	\$100,183	\$62,614	\$37,568
5 Persons	\$104,036	\$65,022	\$39,013
6 Persons	\$111,742	\$69,839	\$41,903
7 Persons	\$119,449	\$74,655	\$44,793
8 Persons	\$127,155	\$79,472	\$47,683
Source: Affordable Housing Professionals of New Jersey			
* These are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a)			

2. Analysis of Housing Characteristics

Age of Housing

Englewood Cliffs is a substantially developed community. Population spikes from the 1950s to 1970 predicated a large increase in the number of houses being built from 1940 to 1969. From 1940 to 1959, 335 houses were built and then, from 1960 to 1979, 598 houses were built. From 1950 to 1970 there was an increase of 4,972 people, which correlates to the spike in residential construction. The Borough continued to experience construction to a lesser extent through the 1980s and 1990s, with an additional 402 units built through 1999. Table 10 demonstrates that an estimate of 418 413 housing units in total was built from 2000 to the present day. There are 0 reports of housing units being built after 2020.

The percentage of housing constructed prior to 1960 is 24%. Housing constructed after 1960 totals 1,413 dwelling units. 22.2% of the housing stock was constructed after 2000.

Table 12 : Age of Housing – 2022 ACS, 5- Year Estimates Borough of Englewood Cliffs		
Year Housing Unit Built	Borough of Englewood Cliffs	
	Number of Units	Percent
2020 or later	0	0.0%
2010 – 2019	151	8.1%
2000 – 2009	262	14.1%
1980 – 1999	402	21.6%
1960 – 1979	598	32.2%
1940 – 1959	335	18.0%
1939 or earlier	112	6.0%
Total	1,860	100%
<i>Note: Figures may not add due to rounding</i>		
<i>Source: 2022 American Community Survey 5-Year Estimates</i>		

Table 13 : Residential Building Permits, 1990-2020 Borough of Englewood Cliffs	
Year	Residential Building Permits
2005 – 2009	129
2010	15
2011	6
2012	15
2013	24
2014	23
2015	25
2016	29
2017	22
2018	20
2019	20
2020	18
2021	24
2022	24
Total	394
2005 – 2009	129
<i>Source: New Jersey Department of Labor and Workforce Development</i>	

The number of residential building permits has slowed down since the early 2000s. In tandem with Table 10 above, the number of residential building permits in Table 11 shows that, while 14.1% of the current stock of housing was built from 2000-2009, the pace of construction is almost non-existent in comparison from 2010 to 2013, where only 3.2% was built. From 2005 to 2009, 129 building permits were issued, and thus averaged at 32.3 per year. From 2010 to 2022, 265 permits have been issued, representing an average of 20.4 per year. This demonstrates a decline in the construction of homes; however, it should be noted that the time frame of 2010 to 2013 also overlapped with a significant economic downturn. The average for the 5-year period after that represents 23.8 per year, which is clearly not a significant decline despite the lack of developable land in the Borough. The pattern of development and issuance of building permits for housing units suggests that many residents choose to tear down existing homes and replace them with new homes, whether to increase the size of their homes or to reinvest in their properties.

Table 14 shows the housing size by the number of rooms. In general, Englewood Cliffs has a larger and significant number of housings with more rooms, with 93.9% of housing having 5 or more rooms. Overall, the share of units with 3 rooms or less comprises just 1.8% of the housing stock. The Borough has a greater share of large single-family homes than multi-family units, which would typically provide 1 or 2 bedroom type units, as indicated by 2018 ACS estimates which report that that 96.7% (1,720) of all housing units are 1-unit detached (single-family) residences, and 3.3 (59) % comprise units that are 1 or more unit attached (multi-family).

Table 14 : Housing Size by Number of Rooms - 2022 ACS, 5- Year Estimates Borough of Englewood Cliffs and Bergen County				
Number Of Rooms	Borough of Englewood Cliffs		Bergen County	
	Number Of Units	Percent	Number Of Units	Percent
1 Room	0	0.0	10,090	2.7
2 Rooms	0	0.0	13,229	3.6
3 Rooms	36	1.8	41,700	11.3
4 Rooms	89	4.3	51,568	14.0
5 Rooms or More	1,924	93.9	251,948	68.4
Total	2,049	100%	368,535	100%
Source: 2022 American Community Survey 5-Year Estimates				
Note: Percentages May Not Add Due To Rounding				

Most of the housing in Englewood Cliffs is owner-occupied. Only slightly more than 12% of housing in Englewood Cliffs is rented. Table 13 indicates whether housing is occupied or not and if occupied whether the units are owned by the occupant or rented. This table also indicates how many units are vacant.

The total vacancy rate in the Borough is 5.9%, based on the 2020 U.S. Census which reported that 115 units were vacant out of 1,961 total units.

Table 15 : Tenure and Housing Vacancy Rates, 2020 Borough of Englewood Cliffs			
	Total	Owner Occupied	Renter Occupied
Total Housing Units	1,961	1,601	245
Vacant Units	115	49	66
Vacancy Rate	5.9%	2.4%	6.8%
Source: Source: U.S. Census, 2020 (1) Includes all vacant units, including those rented or sold but not occupied, seasonal recreational and occasional use units, and "other" vacant units. (2) Includes units available for sale only (3) Includes units available for rent.			

Table 16 shows the value of owner-occupied housing reported by the 2022 American Community Survey 5-year Estimates. Based on the data provided, most of the housing in Englewood Cliffs, 69.9%, is valued above \$1,000,000. Indeed, 90.6% is valued at \$500,000 or above. Contrastingly, most of the housing in Bergen County is valued between \$500,000 and \$999,999. Overall, housing values in the county are less concentrated than in Englewood Cliffs, but more than 75% of the housing in the county is valued between \$300,000 and \$999,999 – which is still significant because it is a concentration at the higher end of the price spectrum for housing.

Table 16 : Value of Owner-Occupied Housing, 2022 ACS 5- Year Estimates Borough of Englewood Cliffs and Bergen County				
Housing Value	Borough of Englewood Cliffs		Bergen County	
	Number of Units	Percent	Number Of Units	Percent
Under \$50,000	51	3.3	3,963	1.7%
\$50,000 to \$99,999	10	0.6	2,369	1.0%
\$100,000 to \$149,999	0	0.0	2,538	1.1%
\$150,000 to \$199,999	0	0.0	3,073	1.3%
\$200,000 to \$299,999	35	2.3	12,357	5.4%
\$300,000 to \$499,999	50	3.2	71,877	31.5%
\$500,000 to \$999,999	318	20.7	105,652	46.2%
\$1,000,000 or more	1075	69.9	26,616	11.7%
Total	1,539	100%	228,445	100%
Note: Figures may not add due to rounding. Source: Value of Owner-occupied housing units, 2022 American Community Survey 5-Year Estimates				

Table 15 depicts that most rent levels in Englewood Cliffs were found to be \$3,000 or more, with 69% of the 301 total rental units reported falling in that range. The next significant rent level was \$2,000 to \$2,499, with 12% of the total rental units estimated to be in that range. In relation to the income levels indicated in Table 9 under this Section, it appears that many of these rents would exceed 30% of income for many household sizes and therefore not be affordable. None of the units in Table 15 are deed restricted as affordable units with controls for low- or moderate-income households and are therefore subject to increases that could also affect future affordability.

Table 17 : Rent Levels, 2022 ACS, 5- Year Estimates Borough of Englewood Cliffs		
Rent	Number of Units	Percent
Less than \$500	0	0.0
\$500 to \$999	0	0.0
\$1,000 to \$1,499	5	1.7
\$1,500 to \$1,999	31	10.3
\$2,000 to \$2,499	36	12.0
\$2,500 to 2,999	20	6.6
\$3,000 or more	209	69.4
No cash rent	20	(x)
Total	301	100%
Source: Contract Rent for Renter-occupied housing units, 2022 American Community Survey 5- Year Estimates		

3. Analysis of Employment Characteristics

Economic data regarding Englewood Cliffs, retrieved from various census tables, reports that the estimated Median Household Income in 2023 was \$222,192, an increase of 46% from 2013 (Table 16). However, based on the CPI Inflation Calculator from the Bureau of Labor Statistics, an income of \$120,333 would have the buying power of \$157,204 in 2023, which demonstrates that incomes have experienced real growth. During the same period the median home value increased 22%, indicating that income growth in Englewood Cliffs has outpaced the increase in home values.

Table 18 : Economic Data Borough of Englewood Cliffs	
Description	Amount
Estimated Median Household Income in 2023	\$222,192
Estimated Median Household Income in 2013	\$120,333
Estimated Median Home Value (Owner Occupied) in 2023	\$1,232,700
Estimated Median Home in 2013	\$963,700
Mean Price of All Housing Units in 2000	\$495,561
Mean Price of Detached Houses in 2000	\$506,691
Mean Price of Townhouses/Other Attached Units in 2000	\$262,068
Mean Price of Two Unit Structures in 2000	\$163,281
Mean Price of 3-4 Unit Structures in 2000	-
Mean Price of 5 or more Unit Structures in 2000	\$269,230
Median Gross Rent in 2023	\$3,500
Source: Units in Structure, 2023 American Community Survey 5-Year Estimates. Aggregate Value (Dollars) by Units in Structure, 2023 American Community Survey 5- Year Estimates. Median Gross Rent, 2023 American Community Survey 5- Year Estimates. Selected Housing Characteristics – 2012 and 2023 5-Year American Community Survey. Selected Economic Characteristics 2012 and 2023, 5-Year American Community Survey. Most recent available data for Aggregate Value by Units in Structure for the Borough is from 2000	

OCCUPATIONS AND INDUSTRIES

A way of understanding the economic health of Englewood Cliffs is to look at the industries and occupations of the current Englewood Cliffs residents. Table 21 provides a more detailed picture of the job market and industries in Englewood Cliffs. The three most common industries and occupations in Englewood Cliffs as of the 2023 American Community Survey Five-Year Estimates are “Educational, Healthcare, and Social Services” at 33.5% of the workforce, “Professional, Scientific, and Management” at 17.9% of the workforce, and “Wholesale Trade” at 9.2% of the workforce.

Table 19 : Most Common Industries and Occupations Borough of Englewood Cliffs	
Educational, Healthcare, and Social Services	33.5%
Professional, Scientific, and Management	17.9%
Retail Trade	7.9%
Arts, Entertainment, Recreation, and Food Services	6.0%
Manufacturing	6.0%
Finance and Insurance, and Real Estate and Rental Leasing	8.9%
Construction	3.4%
Transportation, Warehousing, and Utilities	2.5%
Other Services, except public administration	3.5%
Information	0.9%
Wholesale Trade	9.2%
Public Administration	1.9%
<i>Source: 2023 American Community Survey 5- Year Estimates</i>	

EDUCATION

Table 22 shows the educational attainment of Englewood Cliffs residents based on 2023 American Community Survey 5-Year Estimates data. For the population aged 25 years and older, 96.7% of residents have attained a High School Degree or higher, and 76.9% of residents have obtained a Bachelor’s degree or higher. This data can assist the Borough in understanding regional employment trends.

Table 20 : Education and Employment Data Borough of Englewood Cliffs	
For population 25 years and over	
High school or less	9.1%
Some College	5.6%
Bachelor’s Degree or Higher	76.9%
Graduate or Professional Degree	44.9%
Percent High School Graduate or Higher	96.7%
Percent Bachelor’s Degree or Higher	76.9%
<i>Source: 2023 American Community Survey 5- Year Estimates</i>	

COMMUTING CHARACTERISTICS

Commuting data provides more information on the workers in Englewood Cliffs regarding the necessity of a car or public transportation and how isolated Englewood Cliffs is from employment opportunities. As shown in Table 23, 70.3% of the workers in Englewood Cliffs work in New Jersey, while a lower percentage, but still a majority (58.5%), work within Bergen County. This shows that employment opportunities are available and accessible close to Englewood Cliffs residents. Also, it takes residents an average of 34 minutes to travel to work every day.

Table 21 : Commuting Characteristics Borough of Englewood Cliffs	
Place of Work	Estimates
Worked in State	70.3%
Worked in County of residence	58.5%
Worked outside County of residence	11.8%
Worked outside State of residence	29.7%
Travel Time to Work	Estimates
Less than 10 minutes	8.2%
10 to 14 minutes	12.6%
15 to 19 minutes	10.7%
20 to 24 minutes	13.3%
25 to 29 minutes	2.3%
30 to 34 minutes	11.8%
35 to 44 minutes	3.9%
45 to 59 minutes	11.3%
60 or more minutes	25.9%
Mean travel time to work	34.3
<i>Source: 2023 American Community Survey 5- Year Estimates</i>	

POPULATION AND EMPLOYMENT PROJECTIONS

Table 22 : 2015-2045 Population Projection, Borough of Englewood Cliffs			
Year	Population	Change (#)	Percent Change (annual)
2015	5,366	-	-
2045	5,883	517	0.3%
<i>Source: NJPTA Employment Forecast by County and Municipality, 2015-2045</i>			

Every four years, the North Jersey Transportation Planning Authority (“NJTPA”) conducts regional forecasts for population, households and employment as part of updating its long range transportation plan. The latest set of formal forecasts was released in 2021. Per these forecasts, which are detailed in Table 24 and Table 25, neither population nor employment is predicted to increase significantly in the Borough between 2015 and 2045. Population is only predicted to increase by 517 people from 2015 to 2045, which is a 0.3% annual change, and employment is predicted to increase by 511 from 2015 to 2045, which is a 0.2% annual change

Table 23 : 2015-2045 Employment Projection, Borough of Englewood Cliffs			
Year	Population	Change (#)	Percent Change (annual)
2015	9,065	-	-
2045	9,576	511	0.2%
<i>Source: NJPTA Employment Forecast by County and Municipality, 2015-2045</i>			

1. Projection of Borough Housing Stock

As per the MLUL, specifically, N.J.S.A. 52:27D-310.b, a housing element must contain a projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, considering, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands.

The Department of Community Affairs' Division of Codes and Standards website provides data on Certificates of Occupancy and demolition permits for both residential and non-residential development. Within the Division of Codes and Standards website is the New Jersey Construction Reporter, which contains building permit, certificate of occupancy and demolition data that is submitted by the municipal construction officials within the State each month.

Table 26 presents data on certificates of occupancy and demolition permits issued in the Borough between 2013 and 2023, as reported by the New Jersey Department of Community Affairs. Over this period, the number of certificates of occupancy issued exceeded the number of demolitions permits, indicating that residential development has been occurring at a higher rate than demolition. A net gain of 33 units were built over the ten-year period of 2013-2023, which averages to approximately 3 housing units per year.

Table 25 : Historic Trend of Certificates of Occupancy and Demolition Permits, Borough of Englewood Cliffs as Provided by the Department of Community Affairs												
Type	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
CO	14	12	11	14	16	14	11	10	16	9	14	141
Demo	14	17	18	13	1	10	No data provided	No data provided	11	13	11	108
Net	0	-5	-7	1	15	4	11	10	5	-4	3	33
<i>Source: Department of Community Affairs</i>												

Table 27 below projects 10 years out for residential development between the present and 2035. The projected development includes an extrapolation of the historic trend of residential certificates of occupancy, which is based on an average of 3 housing units constructed in the Borough per year over the last 10 years, and anticipated development through the projects in this Plan. Based on the data below, the Borough anticipates 80 new residential units between now and the end of 2035. Table 27 provides a loose approximation of the timing of residential development based upon this Plan intended to depict that units will be constructed over time in the next 10 years and is no way an exact prediction.

Table 24 : 10-Year Projection of Residential Development Borough of Englewood Cliffs												
Type	<i>July 1, 2025</i>	<i>2026</i>	<i>2027</i>	<i>2028</i>	<i>2029</i>	<i>2030</i>	<i>2031</i>	<i>2032</i>	<i>2033</i>	<i>2034</i>	<i>June 30, 2035</i>	Total
1. Projected Historic Trends	1	3	3	3	3	3	3	3	3	3	1	32
2. Other Projected Development (Cioffi)	--	--	--	--	48	--	--	--	--	--	--	48
Total Projected Residential Development	1	3	3	3	51	3	3	3	3	3	1	80

Of the 80 projected new residences in the Borough between 2025 and 2035, 10 of the units are anticipated to be reserved for low- and moderate-income households (see Table 28).

**Table 26 : Projection of Affordable Units
Borough of Englewood Cliffs**

Type	July 1, 2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	June 30, 2035	Total
1. Approved New Residential Development Permits Issued	--	--	--	--	--	--	--	--	--	--	--	0
2. Other Projected Development (Cioffi Site)	--	--	--	--	10	--	--	--	--	--	--	10
Total Projected Development	--	--	--	--	10	--	--	--	--	--	--	10

5. A Consideration of Lands of Developers Who Have Expressed a Commitment to Affordable Housing

Pursuant to N.J.S.A. 52:27D-310.f and the N.J.S.A. 40:55D-28b(3), a Housing Element must include “a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.” Thus, it is the Borough’s responsibility to consider sites offered for affordable housing. However, the Borough does not have an obligation to include every parcel a developer has proposed. In this case, a developer (Cioffi) has expressed interest in the construction of affordable housing at the site located at 20-32 Sylvan Avenue and 4 Bayview Avenue, identified as Block 201, Lots 10-14 and Block 205, Lots 1 and 4. This project has been included in this HEFSP as further detailed in Section III.

6. Consistency with State Plan and Redevelopment Plan

Pursuant to N.J.S.A. 52:27D-310.i and N.J.S.A. 40:55D-28b(3), a Housing Element must include “an analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.” Per the existing State Development and Redevelopment Plan (SDRP), which was adopted in 2001, the Borough of Garwood is located in the Metropolitan Planning Area (PA1). As stated in the 2001 SDRP, the State Plan’s intention in PA1 is to “provide for much of the state’s future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities.” The SDRP further elaborates that “these goals will be met

by strategies to upgrade or replace aging infrastructure; retain and expand employment opportunities; upgrade and expand housing to attract a balanced residential population; restore or stabilize a threatened environmental base through brownfields redevelopment and metropolitan park and greenway enhancement; and manage traffic effectively and create greater opportunities for public transportation connections within the Metropolitan Planning Area and between the Metropolitan Planning Area, suburban employment centers, and the Philadelphia and New York areas.”

On December 4, 2024, the State Planning Commission approved the updated Preliminary State Development and Redevelopment Plan. Per the Preliminary SDRP, Englewood Cliffs remains in Metropolitan Planning Area (PA1). The Preliminary SDRP provides that the intent of the Metropolitan Planning Area is to "provide for much of the state's future growth in compact development and redevelopment; revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods; address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems; prevent displacement and gentrification; promote growth that occurs in Centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms; rebalance urbanization with natural systems; promote increased biodiversity and habitat restoration; stabilize and enhance older inner ring suburbs; redesign and revitalize auto oriented areas; protect and enhance the character of existing stable communities.” Given that the final updated SDRP is not expected to be adopted until late Fall 2025, the consistency of the Borough's Fourth Round Housing Element with the State Development and Redevelopment Plan is evaluated based on the 2001 SDRP.

Redevelopment has been used as a primary tool for housing development in Englewood Cliffs over the last decade, which is reflected in the inclusionary projects completed and/or approved during the Third Round (see Table 30 of this HEFSP) and is a core objective of the existing SDRP and Preliminary SDRP for PA1. During the Third Round period, over 500 residential units began construction through the implementation of inclusionary redevelopment projects stimulated by the Borough's Third Round HEFSP. These redevelopment efforts have brought an influx of residential development to the Borough's urban core, improved walkability and infrastructure, and leveraged access to the Borough's rail station, which is consistent with providing “future growth in compact development and redevelopment” as envisioned by the SDRP. The Borough is continuing to promote redevelopment as a tool for the provision of affordable housing units as part of its compliance with its Fourth Round affordable housing obligations. The Borough evaluates the viability of all planned and prospective affordable housing sites with respect to utility access, environmental impacts, and traffic/circulation. The projects contemplated for compliance towards the Borough's Fourth Round affordable housing obligation are further evaluated in this Housing Element and Fair Share Plan.

7. Preserving Multigenerational Continuity

As required by N.J.S.A 52:27D-310, a municipality's housing element shall contain an "analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20)." The Multigenerational Family Housing Commission was established in 2021 and is responsible for preparing and adopting "recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior

citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas." The Commission also must "report annually to the Governor and to each house of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), its activities, as well as its findings and recommendations, if any, for State and local government."

The Borough will consider additional mechanisms to advance the goal of preserving multigenerational family continuity and will evaluate any report issued by the Commission when released.

III. 2025 FOURTH ROUND FAIR SHARE PLAN

A. SATISFACTION OF COMPLIANCE MECHANISMS PRIOR TO THE FOURTH ROUND

Compliance with Fourth Round Deadlines

As described in Section II.D of this Housing Element and Fair Share Plan, the A4/S50 legislation established several deadlines prior to the commencement of the Fourth Round on July 1, 2025. This section details the Borough's compliance with the deadlines mandated by the Fourth Round law leading up to the preparation of this Housing Element and Fair Share Plan. The Borough's compliance with the deadlines below are provided in the Appendices of this Plan.

- **June 18, 2024:** Deadline for the municipality to submit to the DCA a detailed accounting of all nonresidential development fees collected and expended since it was authorized to collect such fees. This deadline was retroactively moved to coincide with the September 16, 2024 unit and program monitoring report deadline.
- **September 16, 2024:** Deadline for the municipality to submit to the DCA a detailed accounting of all residential development fees collected and expended since it was authorized to collect such fees. Starting in September 2024, the DCA released a new Affordable Housing Monitoring System (AHMS) as required by A4/S50 for all municipalities to record and report all affordable housing trust fund and unit monitoring activity.
- **September 16, 2024:** Deadline for the municipality to submit a unit and program monitoring report to the DCA.
- **October 20, 2024:** Deadline for DCA to prepare and submit a report on the calculation of regional need and municipal obligations for each region. The DCA released a report titled "Affordable Housing Obligations for 2023-20235 (Fourth Round) Methodology and Background" on October 18, 2024.
- **January 31, 2025:** Deadline for a municipality to adopt its fair share obligation numbers via binding resolution, which will either accept the DCA numbers, or describe why the numbers should be adjusted and what those adjusted numbers should be.

- **48 hours following adoption of the resolution:** Deadline for a municipality to file an action with the Program regarding the adopted resolution and committing to its fair share numbers. The resolution must be published on the municipal website.
- **February 15, 2025:** Deadline for the municipality to submit to the DCA a detailed accounting of all nonresidential and residential development fees collected and expended from the previous year and a municipal status report of unit and program monitoring data from the previous year.
- **February 28, 2025:** Deadline for an interested party to challenge a municipality's adopted numbers. There were no challenges from an interested party on the Borough's adopted Fourth Round present need obligation and prospective need obligation prior to the February 28, 2025 deadline.
- **March 1, 2025:** If no challenges, the Borough's numbers are established by default and immunity from exclusionary zoning litigation remains in effect.
- **June 30, 2025:** Deadline to adopt and endorse a Housing Element and Fair Share Plan and propose drafts of the appropriate zoning and other ordinances and resolutions implementing the municipality's present and prospective obligation. This Fourth Round Housing Element and Fair Share Plan, inclusive of all ensuing attachments and appendices, has been prepared for review and adoption by the Borough Planning Board, endorsement by the Borough Council, and submission to the Program and the Court for review and approval prior to the June 30, 2025 deadline.
- **June 30, 2025 or 48 hours following the Plan's adoption (whichever is sooner):** Deadline for the municipality to file the Housing Element and Fair Share Plan and drafts of resolutions and ordinances to implement its present and prospective obligation with the Program. The Plan and appropriate resolutions and ordinances must be posted on the municipal website. This Plan will be filed with the Program and the Court by June 30, 2025.

Fair Share Obligations Prior to the Fourth Round

The Borough has a zero-unit Third Round Rehabilitation obligation per the January 2020 Order issued by Judge Farrington, a 219-unit Prior Round obligation pursuant to the methodology under N.J.A.C. 5:93, and a 365-unit Round 3 obligation as previously determined by the trial court per the Order issued by Judge Farrington. The following chart illustrates the Borough's affordable housing obligations for the Prior Round and the Third Round per the Settlement Agreement reached with Fair Share Housing Center and the defendant-intervenor on October 8, 2020, and as addressed in the Borough's amended Third Round Housing Element and Fair Share Plan approved via the final JOR issued on December 22, 2020:

Table 27: Englewood Cliffs' Fair Share Obligations Prior to the Fourth Round	
Third Round Rehabilitation Obligation:	0
Prior Round Obligation (1987-1999):	219
Third Round Obligation (1999-2025 (gap and prospective need period)	365
Total Obligation:	584

Third Round Present Need (Rehabilitation) Obligation

As detailed above, the Borough's Third Round present need (rehabilitation) obligation is zero (0).

While the Borough is not required to provide any units towards its Rehabilitation obligation during the Fourth Round, the Borough may elect to facilitate the rehabilitation of units through participation in a rehabilitation program to be credited towards any future present need obligation.

Satisfaction of Combined New Construction Obligation for the Third Round

As specified in the Borough's October 8, 2020 Settlement Agreement, "the Borough has a Prior Round (new construction) Obligation of 219 units and a Third Round (new construction) obligation of 365 units, for a combined new construction obligation of 584 units. The parties agree that the Borough is eligible for a vacant land adjustment pursuant to N.J.A.C. 5:93-4.2." The ensuing sections therefore detail the Borough's satisfaction of its combined 584-unit new construction obligation for the Third Round.

1. Vacant Land Adjustment

The Borough was permitted to conduct a vacant land adjustment for the Third Round in accordance with N.J.A.C. 5:93-4.2 and as granted the October 8, 2020 Settlement Agreement. On behalf of the Borough of Englewood Cliffs as their consulting Planner, Harbor Consultants, Inc. conducted a Vacant Land Adjustment ("VLA") and prepared two reports, both dated December 10, 2018, and which supported its conclusion that the realistic development potential (RDP) for the Borough was 77 for the Third Round. David Kinsey, FAICP, of Kinsey and Hand, prepared a report, dated January 7, 2019, which concluded that the Borough's RDP was 223. Arthur Bernard, PP prepared a report for 800 Sylvan, dated January 7, 2019, which concluded that the Borough's RDP was 334. After the Court made rulings on the RDP, the Borough brought a motion to reconsider various rulings of the Court including the RDP. Before the Court ruled on the motion, the Parties entered negotiations and agreed that the RDP was 97, which was settled in the October 8, 2020 Settlement Agreement. The table below illustrates the basis for this number.

Table 29 : Third Round RDP Borough of Englewood Cliffs, Bergen County, NJ					
Site Name	Location	Block / Lot	Acreage (Net)	Density (units/a cre)	20% Set- Aside (RDP #)
Prentice Hall / New LG	111 Sylvan Ave	207 / 6	27.03	12	65
Sites #17-20	146, 150 & 154 Wood Rd. & 312 Bolz St	303 / 35, 36, 37 and 44	0.91	10	2
Sites #21-23	Sara Hill Lane	303 / 40.05, 40.07, and 40.08	0.67	10	1

Sites #29-31 (Municipal Site on Hudson Terrace)	Hudson Terrace	513 / 5 and 7, 514 / 4 and 5 & approximately 0.25-acre portion of Clendinen Place to be vacated	--	Min. 60 units	12
Sites #35 and 36	2 Kim Hunter Rd.	601 / 14 and 15	2.73	6	3
Site #41	552 Summit St.	603 / 20	1.04	10	2
Site #55-56	575-577 Floyd St	802 / 7.01 and 7.02	1.43	10	3
Site #64-65	41-45 Laurie Drive	1009 / 15-16	0.69	10	1
Site #67	98 Roberts Rd.	1101 / 6	0.73	10	1
Site #72	980 Sylvan Ave.	1202 / 2	3.0	12	7
Total RDP					97

As specified in the amended Third Round Housing Element and Fair Share Plan, "After approval of the 800 Sylvan Avenue project... the Borough shall be entitled to apply to the court to increase its RDP and the number of units eligible for rental bonuses based upon the following formula: the Borough is entitled to claim rental bonus credits for 25 percent of its RDP."

On July 15, 2022, the Appellate Division of the Superior Court of New Jersey upheld the Settlement Agreement for the provision of 450 residential units, inclusive of 90 affordable family rental units, at 800 Sylvan Avenue. The 800 Sylvan Avenue site has secured approvals and is currently under construction; therefore, the Borough has applied the 90 affordable family rental units towards the calculation of its Third Round RDP, thereby increasing its Third Round RDP to 187.

2. Third Round Rental Obligation

COAH's Second Round regulations (at N.J.A.C. 5:93-1, et seq.) provide that at least twenty-five percent (25%) of the new construction component (i.e. excluding the present need or rehabilitation share) must be satisfied with rental units. Based upon the RDP of 187, at least 47 rental units are required. The Borough satisfies this requirement through the provision of 155 family rental units from the Hudson Terrace/Michaels Development/"Cliffs on Hudson" project and the 800 Sylvan Avenue project.

3. Third Round Age-Restricted Housing

COAH's Second Round regulations permit a total of no more than 25 percent of the new construction obligation to be satisfied with age-restricted housing. Based upon the actual units to be constructed to satisfy the RDP, up to 46 age-restricted housing units are permitted at this time. However, as explained below, the Borough's plan envisions that none of the 187-unit RDP will be satisfied with age-restricted housing.

4. Third Round Very Low-Income Housing Obligation

As a result of the July 2008 amendments to the Fair Housing Act known as the "Roberts Bill", all municipalities have an obligation to reserve at least 13% of the new affordable units built to satisfy

the Third Round obligation to be for very low income households.⁴ The Fair Housing Act states that the thirteen percent (13%) threshold only has to be maintained Borough wide. To ensure that enough very low income units are produced, the Borough adopted an Affordable Housing Ordinance (Ord. No. 20-13) requiring that within any inclusionary or one hundred percent (100%) affordable rental housing development, at least thirteen percent (13%) of the low and moderate income units built shall be affordable to very low income households for all rental or for-sale projects.

The Borough will comply with providing VLI units from the following: 1) fourteen (14) from family rental units from the municipally-sponsored 100% affordable site; 2) two (2) from family rental units at the New LG/ North Woods site; and twelve (12) from the family rental units at the 800 Sylvan Avenue site. In total, the Borough anticipates twenty-eight (28) family VLI units.

5. Third Round Rental Bonuses

In accordance with N.J.A.C. 5:93-5.15(d), the Borough is eligible to seek rental bonuses up to twenty-five percent (25%) of the RDP. While the Third Round RDP for the Borough was settled as 97 units, since the execution of the October 8, 2020 Settlement Agreement and amended Third Round HEFSP, the 800 Sylvan Avenue project (450 residential units, inclusive of 90 affordable family rental units) has secured approvals and is currently under construction, thereby increasing its Third Round RDP to 187. The Borough therefore is eligible to seek up to 46 rental bonus credits, which have been applied entirely from the 65 family rental units at the Hudson Terrace/Michaels Development/"Cliffs on Hudson" project.

6. Satisfaction of the Borough's Third Round RDP

The Borough satisfies its 187-unit Third Round RDP as follows:

Table 30 : Projects Addressing the Borough's Third Round RDP Borough of Englewood Cliffs, Bergen County, NJ				
BOROUGH RDP	187			
	Completed Units	Proposed Units	Rental Bonuses	Total
Proposed Affordable Housing Sites				
100% Affordable Site		65	46	111
Hudson Terrace/Michaels Development/ "Cliffs on Hudson" (Municipally Sponsored 100% Affordable Site) (Approx. 2.3 +/- acres - Block 514, Lots 4 & 5; Block 513, Lots 5 & 7, and approximately 0.25-acre vacated portion of Clendinen Place)		65 (F)(R)	46 (BC)	111
Inclusionary Sites		102	-	102
New LG / North Woods (3.5-acre portion - Block 207, Lot 6)		12	-	12

⁴ For projects used to satisfy the Third Round new construction obligation, the FHA requirements and UHAC regulations applicable to the Third Round shall apply. Projects credited towards the Borough's Fourth Round prospective need obligation shall be subject to the requirements of the amended FHA and shall be subject to the revised UHAC rules effective as of December 19, 2024, and subject to final revision and adoption, which include amendments at N.J.A.C. 5:80-26.1, 26.2, 26.4 through 26.27 and at Appendices A through Q, and new rules at N.J.A.C. 5:80-26.3 and 26.28 to codify statutory requirements enacted pursuant to P.L. 2024, c.2.

800 Sylvan Avenue (Block 910, Lot 1)		90 (F)(R)	-	90
TOTAL UNITS AND BONUSES		213		
(R) = Rental (F) = Family Units (BC) = Bonus Credit				

7. Detailed Summary of Third Round RDP Satisfaction

a. 65 affordable family rental units from a Municipally-Sponsored 100% Affordable Site:

- i. Per the October 8, 2020 Settlement Agreement, at least sixty (60), but not more than sixty-five (65), affordable housing units shall be built from a municipally-sponsored 100% affordable housing development located at (i) "Municipal Site A": Borough-owned Block 513, Lot 7, Block 514, Lots 4 & 5 (approximately 1.4-acres owned by the Borough), and an approximately 0.24-acre, 190 feet long portion of Clendinen Place to-be-vacated, with street addresses of 474 & 482 Hudson Terrace and 4 Clendinen Place and (ii) "Municipal Site B" Block 513, Lot 5 at 488 Hudson Terrace which is currently partially developed with the Borough's community center and emergency squad facility. On March 10, 2021, the Borough Council authorized the execution of a Developer's Agreement between the Borough and Michaels Development Company I, L.P. for the construction of a 65-unit municipally-sponsored 100% affordable housing development at Municipal Site A & Municipal Site B. On August 8, 2024, the Planning Board granted amended preliminary and final site plan approval for the "Cliffs on Hudson" project, which will provide 65 affordable family rental units (14 very-low, 19 low, 32 moderate). The site is currently undergoing construction.

b. 102 affordable units from the following inclusionary sites:

- i. **12 affordable units from the New LG/North Woods site (Portion of Block 207 Lot 6 located at 111 Sylvan Avenue).** A development of up to sixty (60) total family units with a 20% affordable housing set-aside, yielding 12 affordable non-age-restricted housing units, shall be permitted on a +/- 3.5-acre portion of the "New LG site" (Block 207, Lot 6). The site was rezoned as Inclusionary Housing-1 (IH-1) Zone via Ordinance No. 20-13.
- ii. **90 affordable family rental units from 800 Sylvan Avenue (Block 910, Lot 1).** On July 15, 2022, the Appellate Division of the Superior Court of New Jersey upheld the Settlement Agreement for the provision of 450 residential units, inclusive of 90 affordable family rental units, at 800 Sylvan Avenue. The 800 Sylvan Avenue site has secured approvals and is currently under construction

c. 46 rental bonus credits:

- i. **46 rental bonus credits shall be applied from 46 of the 65 family rental units provided from the Hudson Terrace/Michaels Development/ "Cliffs on Hudson" project.** These 46 rental bonus credits are based on a 25% rental bonus credit cap applied to the 187-unit Third Round RDP.

Satisfaction of the Borough's Third Round Unmet Need

The Borough's Third Round combined new construction obligation of 584, subtracted by 213 units and bonuses credited towards the Third Round RDP, yields a Third Round unmet need of 371. The Borough proposes addresses its Third Round unmet need as follows:

Table 31 . Projects and Mechanisms Addressing the Third Round Unmet Need Borough of Englewood Cliffs, Bergen County, NJ			
Unmet Need	371		
Mechanism	Completed Units	Proposed Units	Total
Hudson Terrace Overlay Zone		62 (78) ⁽¹⁾	62 (78)⁽¹⁾
East Palisades Overlay Zone		38 (48) ⁽¹⁾	38 (48)⁽¹⁾
B-3 Zone District Overlay Zone		31 (39) ⁽¹⁾	31 (39)⁽¹⁾
Northern Sylvan Avenue Corridor Mixed Use Overlay Zones (A)			
910, 910-920, 930-940 Sylvan Avenue		194	194
1000 Sylvan Avenue		36	36
Northern Sylvan Avenue Corridor Mixed Use Overlay Zones (B)			
980 Sylvan Avenue		9	9
1000 Sylvan Avenue		10 (15) ⁽²⁾	10 (15)⁽²⁾
Sisters of St. Joseph of Peace Site		16 ⁽³⁾	16 ⁽³⁾
Remaining Rental Bonus Credits (25% Cap)		100	100
TOTAL CREDITS AND UNITS		496 (535)	
⁽¹⁾ Projects with residential or mixed-use options (mixed-use unit numbers in parentheses) ⁽²⁾ Projects with non-age-restricted or age-restricted options (age-restricted unit numbers in parentheses) ⁽³⁾ Units shall be age-restricted			

1. Detailed Summary of Third Round Unmet Need Satisfaction

a. Hudson Terrace, East Palisades, and the B-3 Zone District Overlay Zones

Per the October 8, 2020 Settlement Agreement, the Borough agreed to overlay zoning rights to permit family inclusionary developments in three areas, at 19 units/acre with a 20% affordable housing set-aside if strictly residential and 24 units/acre with a 20% affordable housing set-aside if mixed-use, unless specified otherwise, with accommodating and flexible bulk standards within a three (3) story building height. These standards shall apply to the Hudson Terrace Overlay, the East Palisades Overlay & the B-3 Zone District Overlay. These overlay zones were adopted as the Downtown Tiers Inclusionary Housing Overlay-2 (IHO-2) Zone via Ordinance No. 20-14.

The preservation of the viewshed of the Palisades is a critically important aesthetic and scenic design consideration. Any zoning standards for the sites described in this subsection shall require the applicant to demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings

when viewed from the vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.

i. Hudson Terrace Overlay Zone

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights for the area located along Sylvan Avenue, to the south of Palisades Avenue – which comprises the B-4 zoning district in the northern portion and B-2 zoning district in the southern portion so that as development and redevelopment occur, there are opportunities for inclusionary development. This area includes a total of approximately 16.2 acres of existing developed sites that are unconstrained. This overlay zone allows for inclusionary affordable housing as a permitted use at 19 units/acre with twenty percent (20%) affordable housing set-aside if strictly residential (which yields a maximum of 307 residential units, inclusive of 62 affordable units) and 24 units/acre with a twenty percent (20%) affordable housing set-aside if mixed-use (which yields a maximum of 388 residential units, inclusive of 78 affordable units), and in either case within a three (3) story building height.

ii. East Palisades Avenue Overlay Zone

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights for the area located along East Palisades Avenue, west of Sylvan Avenue – which largely comprises the B-1 zoning district and a portion of the B-4 zoning district so that as development and redevelopment occur, there are opportunities for inclusionary development. The Overlay Rezoned Area includes a total of approximately 9.97 acres of existing developed sites that are unconstrained. This overlay zone allows for inclusionary affordable housing as a permitted use at 19 units/acre with twenty percent (20%) affordable housing set-aside if strictly residential (which yields a maximum of 189 residential units, inclusive of 38 affordable units) and 24 units/acre with a twenty percent (20%) affordable housing set-aside if mixed-use (which yields a maximum of 239 residential units, inclusive of 48 affordable units), and in either case, within a three-story building height.

iii. B-3 Zone Overlay Zone

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights for the properties located within the B-3 Zone District, at the southern portion of the Borough so that as development and redevelopment occur, there are opportunities for inclusionary development. This area includes a total of approximately 9.95 acres of existing developed sites that are unconstrained; however, approximately 1.985 acres from the properties belonging to the Cioffi site are used towards the Borough's Fourth Round RDP, therefore these 1.985 acres must be subtracted from the total acreage of the B-3 Overlay Zone to avoid double counting the projected affordable housing units from the site. The remaining developable acreage is therefore 7.965. This overlay zone allows for inclusionary

affordable housing as a permitted use at 19 units/acre with twenty percent (20%) affordable housing set-aside if strictly residential (which yields a maximum of 151 residential units, inclusive of 31 affordable units) and 24 units/acre with a twenty percent (20%) affordable housing set-aside if mixed-use (which yields a maximum of 191 residential units, inclusive of 39 affordable units), and in either case, within a three-story building height.

b. Northern Sylvan Avenue Corridor Mixed Use Overlay Zones (A) and (B)

The preservation of the viewshed of the Palisades is a critically important aesthetic and scenic design consideration. Any zoning standards for the sites described in this subsection shall require the applicant to demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.

i. Northern Sylvan Avenue Corridor Mixed Use Overlay (A)

Properties:

- i. 910 Sylvan Avenue
Block 1201, Lot 8 and Lot 9.01, 22.3 acres
- ii. 910-920 Sylvan Avenue
Block 1201, Lot 9.03, 9.295 acres
- iii. 930-940 Sylvan Avenue
Block 1201, Lot 9.04, 10.457 acres

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights for the properties listed above so that as development and redevelopment occur, there are opportunities for inclusionary development in these areas that allow for family development, at 23 units/acre with twenty percent (20%) affordable housing set-aside (therefore yielding a maximum of 967 residential units, inclusive of 194 affordable units) with accommodating and flexible bulk standards, provided that the building height does not exceed four (4) stories for the area north of Hollywood Avenue, west of Sylvan Avenue to Sage Road, and east of Johnson Avenue and Floyd Street, excluding the 800 Sylvan Avenue site with the exception of the area described for the remainder of 800 Sylvan Avenue site (Block 910, Lot 1). The Northern Sylvan Avenue Corridor Inclusionary Overlay-A (OL-A) Zone includes the aforementioned properties and was adopted via Ordinance No. 20-11.

Properties:

- i. Remainder of 800 Sylvan Avenue site
Portion of Block 910, Lot 1, approximately 8 acres

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights for the property listed above so that as development and

redevelopment occur, there are opportunities for inclusionary development in the remaining 8.0 +/- acres of 800 Sylvan Avenue site (Block 910, Lot 1) provided that the building height does not exceed four (4) stories. This roughly 8-acre portion of a larger site is currently developed with an existing research and development facility, and the Borough will permit family development at the same density (22.5 du/acre) as the bulk of the 28.78-acre 800 Sylvan Avenue property used toward the Borough's Third Round RDP (therefore yielding a maximum of 180 residential units, inclusive of 36 affordable units). The Northern Sylvan Avenue Corridor Inclusionary Overlay-A (OL-A) Zone includes the aforementioned property and was adopted via Ordinance No. 20-11.

ii. Northern Sylvan Avenue Corridor Mixed Use Overlay (B)

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights so that as development and redevelopment occur, there are opportunities for inclusionary development for the Old LG site (1000 Sylvan Avenue) and 980 Sylvan Avenue, provided that the building height does not exceed four (4) stories, as detailed below. The Northern Sylvan Avenue Corridor Inclusionary Overlay-B (OL-B) Zone was adopted via Ordinance No. 20-12.

Properties:

- i. 980 Sylvan Avenue
Block 1202, Lot 2 (Lighthouse)

6.009 acres, a gross density of 7.5 units per gross acre in a family inclusionary project, with a 20% set aside, provided that the building height does not exceed four (4) stories (therefore yielding a maximum of 45 residential units, inclusive of 9 affordable units). Google Earth shows that Block 1202, Lot 2 has been developed with an office building on the southeast portion of the site.

- ii. 1000 Sylvan Avenue
Block 1202, Lot 2.01 (Old LG headquarters)

5.46 acres, a gross density of 13.5 units per acre for an age-restricted development with a 20% set aside (therefore yielding a maximum of 73 residential units, inclusive of 15 affordable units), provided that the building height does not exceed four (4) stories, shall only be allowed for a period of three years from the entry of the JOR and if no application is approved for an age-restricted development by that time the permitted uses shall also allow an alternative use as a non-age-restricted development with family affordable units to be constructed on the property at a gross density of 8.5 units per acre with a 20% set aside (therefore yielding a maximum of 46 residential units, inclusive of 10 affordable units), provided that the building height does not exceed four (4) stories.

c. Sisters of St. Joseph of Peace Site (Block 1302, Lot 5)

Per the October 8, 2020 Settlement Agreement, the Borough has agreed to overlay zoning rights so that as development and redevelopment occur, there are opportunities for inclusionary development on the property located at Block 1302, Lot 5 (12.7 +/- acres) to permit age-restricted residential development at a gross density of six (6) units/acre with a 20% set-aside (therefore yielding a maximum of 76 residential units, inclusive of 16 affordable units). A second and separate development will allow for a bonus density of additional age-restricted units provided those units are limited to the conversion of the main “historic buildings” on the property, whether these building is on or eligible to be on any State or National Registers of Historic Places list. The conversion of these “historic buildings” for any bonus density shall be limited to one-bedroom, age-restricted units, with a 20% set aside. As stated by the Settlement Agreement, any development on the property shall maintain, or if not inconsistent with the historical preservation requirements herein, reduce any current visual intrusions to the scenic integrity of the Palisades viewshed from the vantage point of Manhattan and the George Washington Bridge.

d. Bonus Credits

After subsequent approval of an inclusionary or 100% affordable housing project that would otherwise address the unmet need is final and not subject to further appeal, the Borough shall be entitled to apply to the court to increase its RDP and the number of units eligible for rental bonuses based upon the following formula: the Borough is entitled to claim rental bonus credits for 25 percent of its RDP. Based on the combined Third Round new construction obligation of 584, the Borough will be eligible for a maximum of 146 rental bonus credits for the Third Round. 46 of these rental bonus credits have already been applied to the Third Round RDP, therefore an additional 100 rental bonus credits may be allocated towards the Third Round unmet need and may be used towards the RDP upon full build out of the Third Round new construction obligation. However, any right to additional rental bonus credits shall not relieve the Borough of its responsibilities and obligations under any approval of this HEFSP by the Court. Moreover, pursuant to N.J.A.C. 5:93-5.15(d) there are circumstances wherein a municipality may lose rental bonuses, previously granted, if approvals lapse or a project is abandoned.

B. FOURTH ROUND COMPLIANCE MECHANISMS**Fourth Round Present Need (Rehabilitation) Obligation**

As explained in detail in Section II of this Fourth Round Housing Element and Fair Share Plan, the Borough’s Fourth Round present need (rehabilitation) obligation is zero (0).

While the Borough is not required to provide any units towards its present need obligation during the Fourth Round, the Borough may elect to facilitate the rehabilitation of units through participation in a rehabilitation program to be credited towards any future present need obligation.

1. Vacant Land Adjustment

As discussed in Section II.G of this HEFSP, the Borough has conducted a Vacant Land Adjustment as part of addressing its Fourth Round prospective need obligation (see *Appendix L*). As a result of the VLA, the Borough calculated an RDP of 10 from the properties located at 20-32 Sylvan Avenue

and 4 Bayview Avenue (Block 201, Lots 10-14 and Block 205, Lots 1, 2 and 4), which are developed and approved properties determined to generate an RDP.

2. Percentage Requirements

- Minimum Rental: Per N.J.S.A. 52:27D-311, “A municipality shall satisfy a minimum of 25 percent of the actual affordable housing units, exclusive of any bonus credits, to address its prospective need affordable housing obligation, through rental housing, including at least half of that number available to families with children.”
- Minimum Family Housing: Per N.J.S.A. 52:27D-311, “A municipality shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its prospective need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321).”
- Age-Restricted Cap: Per N.J.S.A. 52:27D-311, “A municipality may not satisfy more than 30 percent of the affordable housing units, exclusive of any bonus credits, to address its prospective need affordable housing obligation through the creation of age-restricted housing.”
- Minimum Very-Low Income: Per N.J.S.A. 52:27D-329.1, “Housing elements and fair share plans adopted pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) shall ensure that at least 13 percent of the housing units made available for occupancy by low-income and moderate-income households to address a municipality’s prospective need obligation will be reserved for occupancy by very low income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), with at least half of such units made available for families with children. The 13 percent shall count towards the minimum 50 percent of the housing units required to be made available for occupancy by low-income households to address a municipality’s prospective need obligation.”
- Bonus Credit Cap: Per N.J.S.A. 52:27D-311, “A municipality shall not receive more than one type of bonus credit for any unit and a municipality shall not be permitted to satisfy more than 25 percent of its prospective need obligation in the fourth round or any subsequent round through the use of bonus credits.”

The Borough is currently allocating 10 affordable family rental units from a proposed inclusionary development at the Cioffi site to satisfy the Borough’s Fourth Round RDP, as well as 2.5 rental bonus credits based on a 25% cap of the 10-unit RDP. The income distribution and bedroom distribution are undetermined at this time. As additional sites are built out and the RDP increases over the Fourth Round, the Borough will ensure compliance with all of the percentage requirements per the amended FHA as listed above, as well as any other additional requirements of the amended FHA and UHAC regulations.

3. Satisfaction of Fourth Round RDP

Table 32 . Existing and Proposed Projects Addressing the Fourth Round RDP Borough of Englewood Cliffs, Bergen County, NJ						
BOROUGH RDP	10					
	Completed Units	Proposed Units	L	M	VL	Total
Cioffi Site (20-32 Sylvan Avenue and 4 Bayview Avenue; Block 201, Lots 10-14, Block 205, Lots 1,2, & 4)		10 (F)(R)	-	-	-	10
TOTAL UNITS						10
Bonus Credits (2.5 maximum based on 25% of 10-unit RDP)						2.5
TOTAL CREDITS AND UNITS						12.5
(R) = Rental (BC) = Bonus Credit (F) = Family						

Detailed Summary of Fourth Round RDP Satisfaction

1. 10 units from the following inclusionary redevelopment project:

10 units from the Cioffi Site (20-32 Sylvan Avenue and 4 Bayview Avenue; Block 201, Lots 10-14, Block 205, Lots 1,2, & 4).

The proposal is for a three-story inclusionary mixed-use development consisting of 9,494 square feet of commercial space on the ground floor and forty-eight (48) apartments on the upper two floors. The residential portion of the development includes a twenty percent (20%) set aside that will create ten (10) affordable family rental units. The site is located in the Downtown Tiers (Hudson Terrace, East Palisades and B-3 Zone) Inclusionary Housing Overlay -2 (IHO-2) Zone.

2. 2 rental bonus credits, based on a maximum of 25% of the 10-unit RDP.

Fourth Round Unmet Need Obligation

The Borough's Fourth Round prospective need obligation of 329 units subtracted by the 12.5 credits used to satisfy the Borough's Fourth Round RDP results in a Fourth Round unmet need obligation of 316.5 units. The Borough will address its 316.5-unit unmet need through the mechanisms detailed in the table below:

Table 33 . Existing and Proposed Projects Addressing the Fourth Round Unmet Need Borough of Englewood Cliffs, Bergen County, NJ						
Fourth Round Unmet Need	316.5					
	Completed Units	Proposed Units	L	M	VL	Total
New Overlay Zones		177 (213) ⁽¹⁾	-	-	-	177 (213) ⁽¹⁾
New Southern Sylvan Ave Corridor Overlay Zone C		11 (14) ⁽¹⁾	-	-	-	11 (14) ⁽¹⁾
New Southern Sylvan Ave Corridor Overlay Zone D		166 (199) ⁽¹⁾	-	-	-	166 (199) ⁽¹⁾
Other Mechanisms		60	-	-	-	60
Mandatory Set-Aside Ordinance (MSO)		60	-	-	-	60
Remaining Bonus Credits to Reach 25% Cap						79.5
TOTAL CREDITS AND UNITS	316.5					
⁽¹⁾ Projects with residential or mixed-use options (mixed-use unit numbers in parentheses)						

Detailed Summary of Fourth Round Unmet Need**1. Detailed Summary of Fourth Round Unmet Need Satisfaction****a. Units from New Inclusionary Overlay Zones**

- i. **11 units (or up to 14 units for mixed-use projects) from the Southern Sylvan Avenue Overlay Zone C.** The Borough will adopt a new Inclusionary Overlay Zone, known as Southern Sylvan Avenue Overlay Zone C, which consists of the area located along Sylvan Avenue, to the east of Palisades Avenue, and is comprised of the existing B-4 Zoning District in the southern portion and the existing R-B Zoning District in the northern portion. It is bounded by Sylvan Avenue (US Route 9W) and Demarest Avenue. The Overlay Zone shall apply to the following properties: Block 617, Lots 6 and 13-17. The unconstrained acreage of the Overlay Zone totals approximately 2.7935 acres. Every property within the Overlay Zone may be redeveloped as a completely residential inclusionary project at a density of 20 units per acre with a 20 percent set aside, totaling to a maximum of 55 residential units, inclusive of 11 affordable units. Alternatively, the site can be redeveloped as a mixed commercial/residential project in which the residential component may be developed at a density of 24 units per acre with a 20% set aside, totaling to a maximum of 67 residential units, inclusive of 14 affordable units.

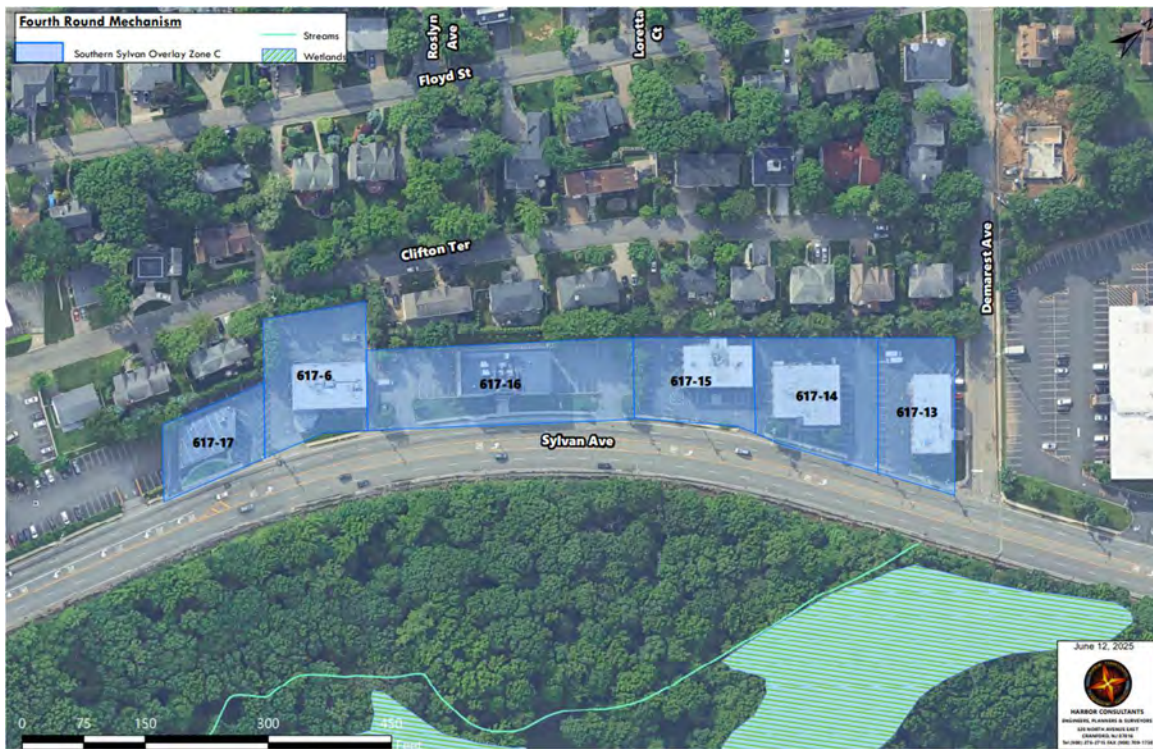


Figure A – Aerial Map of Southern Sylvan Ave Overlay Zone C

- ii. **166 units (or up to 199 units for mixed-use projects) from the Southern Sylvan Avenue Overlay Zone D.** The Borough will adopt a new Inclusionary Overlay Zone, known as Southern Sylvan Avenue Overlay Zone D, which consists of the area located along Sylvan Avenue, west of Sherwood Avenue, and is only comprised of the existing B-2 Zoning District. The Overlay Zone shall apply to the following properties: Block 130, Lots 22-25, Block 313, Lots 1-3, Block 314, Lots 10-15, and Block 411, Lots 16-23. The unconstrained acreage of the Overlay Zone totals approximately 41.38 acres. Every property within the Overlay Zone may be redeveloped as a completely residential inclusionary project at a density of 20 units per acre with a 20 percent set aside, totaling to a maximum of 827 residential units, inclusive of 166 affordable units. Alternatively, the site can be redeveloped as a mixed commercial/residential project in which the residential component may be developed at a density of 24 units per acre with a 20% set aside, totaling to a maximum of 993 residential units, inclusive of 199 affordable units.



Figure B – Aerial Map of Southern Sylvan Ave Overlay Zone D

b. 60 units from Additional Mechanisms

- i. **Mandatory Set-Aside Ordinance.** The Borough will amend its already adopted Borough-wide Mandatory Set-Aside Ordinance (MSO), to require that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough's Land Use Board that results in multi-family residential development of five (5) or more dwelling units to produce affordable housing at a set-aside rate of 20% for for-sale affordable units and at a set aside rate of 20% for rental affordable units. In addition, sites that fall under the terms and conditions of the MSO shall not be subdivided so as to avoid compliance with the requirements of the MSO (see Appendix R). A minimum of 60 affordable units generated from the Borough's MSO during the Fourth Round shall be used towards satisfaction of the Borough's Fourth Round unmet need.
- c. **79.5 remaining bonus credits.** Given that municipalities are permitted to satisfy up to 25% of their Fourth Round prospective need from bonus credits from completed units (Borough's Fourth Round prospective need of $329 \times 25\% =$ maximum of 82 bonus credits), the Borough will be eligible for 79.5 remaining bonus credits based on the full build out of its Fourth Round prospective need.

C. SITES FOR 100% AFFORDABLE/INCLUSIONARY DEVELOPMENT

As required by the FHA, proposals for inclusionary and/or 100% affordable residential development have been considered during the preparation of this Housing Element and Fair Share Plan, and the only site considered was ultimately included in this Plan.

1. Cioffi Site (20-32 Sylvan Avenue and 4 Bayview Avenue; Block 201, Lots 10-14 and Block 205, Lots 1, 2, & 4)

The proposal is for a three-story inclusionary mixed-use development consisting of 9,494 square feet of commercial space on the ground floor and forty-eight (48) apartments on the upper two floors. The residential portion of the development includes a twenty percent (20%) set aside that will create ten (10) affordable housing units. The site is located in the Downtown Tiers (Hudson Terrace, East Palisades and B-3 Zone) Inclusionary Housing Overlay - 2 (IHO-2) Zone.



Figure C – Aerial Map of Cioffi Site

i. Site Description and Project History

- i. The Cioffi Site is comprised of Block 201, Lots 10-14 and Block 205, Lots 1, 2, & 4. The site is located along Sylvan Avenue and Bayview Avenue and is within the Downtown Tiers (Hudson Terrace, East Palisades and B-3 Zone) Inclusionary Housing Overlay - 2 (IHO-2) Zone. The area of the site is approximately 1.985 acres. There are six former principal buildings on the site and multiple

accessory structures and garages. The overall condition of the buildings and structures show evidence of disrepair and neglect.

- ii. Site Control. The property is owned by CFI Development, LLC.
- iii. Administrative Agent. The Borough's Administrative Agent will ensure that all units are affirmatively marketed and all applicants for the project are properly income qualified in compliance with all UHAC requirements per N.J.A.C. 5:80-26.1 et seq.
- iv. Proforma and Construction Schedule. A proforma and construction schedule will be provided as the project moves forward.

ii. **Site Suitability**

The project, which is proposed to include 48 total units with a twenty percent (20%) set aside of 10 affordable family rental units as part of the Borough's compliance with its Fourth Round prospective need obligation, complies with N.J.A.C. 5:93-1.1, 5.3 and 5.6 that require all new construction sites to be available, approvable, developable, and suitable. This consistency is demonstrated as follows:

- i. There are no known encumbrances that would prohibit or otherwise effect the development of the property in general.
- ii. The subject property located at 20-32 Sylvan Avenue and 4 Bayview Avenue consists of eight (8) individual lots. The overall tract contains 1.985 acres and has 289.54 +/- feet of frontage along Fifth Street, and unimproved thirty-three-foot-wide Borough right-of-way, 50.00 feet of frontage along Bayview Avenue and 393.36 feet of frontage along Sylvan Avenue (State Highway Route 9W). South of the tract along Sylvan Avenue are commercial businesses. East along Bayview Avenue are single family residences. South of and across from unimproved Fifth Street are single family residences. The tract contains approximately fifty-seven (57) large deciduous trees.
- iii. There is adequate water infrastructure and water capacity to serve the site.
- iv. The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- v. The site location is consistent with the adopted State Development and Redevelopment Plan. It is located in Planning Area 1, where development is encouraged.
- vi. Per NJDEP mapping, there are no critical habitats, C-1 streams, wetlands, or floodplains on site.
- vii. There are no slopes greater than 15 percent on the site.

- viii. Per NJDEP, the site is not an active property on the Known Contaminated Sites list.
- ix. There are no known historic or cultural resources on the site.
- x. The site is located in the Downtown Tiers (Hudson Terrace, East Palisades and B-3 Zone) Inclusionary Housing Overlay -2 (IHO-2) Zone.
- xi. The preservation of the viewshed of the Palisades is a critically important aesthetic and scenic design consideration. Any zoning standards for the sites described in this subsection shall require the applicant to demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from the vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.

D. AFFORDABLE HOUSING ORDINANCE AND AFFIRMATIVE MARKETING PLAN

The Borough will continue to utilize the Affordable Housing Ordinance and the Affirmative Marketing Plan from the preceding round (See Appendices). Additionally, the Borough has appointed a Municipal Housing Liaison by Resolution No. 25-52 (See Appendix) and is under contract with Triad Associates as their Administrative Agent (See Appendix) to manage the affordability controls and the affirmative marketing plan for all affordable housing units in the Borough.

E. SPENDING PLAN AND AFFORDABILITY ASSISTANCE MANUAL

The Borough prepared a draft 2025-2035 Spending Plan (see Appendix) , which is to be adopted by the Borough Council as part of its Fourth Round compliance. The Spending Plan outlines the anticipated collection and distribution of mandatory development fees and in lieu contributions and the Borough's proposals for spending the money that comes into the Affordable Housing Trust Fund. Development fees are collected in accordance with the Borough's Development Fee Ordinance, which was prepared during the Third Round and adopted by Borough Council on November 13, 2020 (see Appendix). The Borough will revise the Development Fee Ordinance if necessary to comply with statutory changes in the Fourth Round. The Borough understands that no funds may be expended without the Court's approval of the Spending Plan.

A draft Affordability Assistance Manual will be prepared by the Borough's Administrative Agent. The Affordability Assistance Manual shall be adopted by the Borough Council as part of its Fourth Round compliance. It is understood that any documents not completed and/or adopted by the time of the adoption of this HEFSP will be subject to review by the Special Adjudicator and the Court and may be a condition of any judgment of repose.

F. CONCLUSION

The Borough of Englewood Cliffs will address its Fourth Round affordable housing obligation as follows:

Table 34 : Summary of Englewood Cliffs' Fourth Round Affordable Housing Plan Borough of Englewood Cliffs, Bergen County, NJ		
Obligation	#	Summary of Affordable Housing Strategies
Fourth Round Obligation	329	
RDP	12	<p>TOTAL CREDITS = 12.5 Total new units: 10 Bonus credits: 2.5 redevelopment bonus credits</p> <p><u>Proposed New Units</u></p> <ul style="list-style-type: none"> Cioffi Site (Block 201, Lots 10-14 and Block 205, Lots 1, 2, & 4) <ul style="list-style-type: none"> <u>10</u> units
Unmet Need	316.5	<p>TOTAL CREDITS = 316.5 Total new units through New Overlay Zones: 177 (or 213 if mixed-use)</p> <ul style="list-style-type: none"> Southern Sylvan Avenue Corridor Overlay Zone C <ul style="list-style-type: none"> <u>11 units (or 14 if mixed-use)</u> Southern Sylvan Avenue Corridor Overlay Zone D <ul style="list-style-type: none"> <u>173 units (or 60 if mixed-use)</u> <p>Other Mechanisms/Credits:</p> <ul style="list-style-type: none"> Amended MSO: <u>60 units</u> <u>79.5 credits</u> from remaining bonus credits permitted per 25% cap of 329-unit prospective need <p style="text-align: center;">■</p>



Figure D – Summary of Plan Map

IV. APPENDICES

APPENDIX A

**BOROUGH OF ENGLEWOOD CLIFFS
BERGEN COUNTY, NEW JERSEY**

RESOLUTION # 25-27

**RESOLUTION COMMITTING TO DCA'S FOURTH ROUND
AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED
NUMBERS PURSUANT TO P.L. 2024, C. 2 AND FAIR HOUSING ACT,
N.J.S.A. 52:27D-302.**

WHEREAS, on March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c. 2), which legislation amends the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. (“Amended FHA”) and requires each municipality to provide its fair share of affordable housing obligation under the Mount Laurel Doctrine based on a new process and updated methodology; 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, on October 18, 2024, the DCA calculated the non-binding statewide and regional affordable housing needs and released a non-binding determination of each municipality’s Fourth Round (2025 to 2035) affordable housing obligation as set forth in DCA’s report, entitled “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background” (the “DCA Report”); and

WHEREAS, pursuant to the DCA Report the Borough of Englewood Cliffs’ non-binding Present Need or Rehabilitation Obligation is 0 and the Borough’s non-binding Prospective Need is 329; 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, the Borough of Englewood Cliffs accepts the DCA calculations of the Borough of Englewood Cliffs’ fair share obligations and commits to its fair share of 0 units present need and 329 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 of Englewood Cliffs reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough of Englewood Cliffs 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 of Englewood Cliffs reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Municipal Council for the Borough of Englewood Cliffs finds that it is in the best interest of the Borough to declare its commitment to the obligations as 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, the Borough of Englewood Cliffs seeks a certification of compliance with the FHA and, therefore, directs King, Moench & Collins, its Affordable Housing Attorney, to file a declaratory relief action within 48 hours of the adoption of this resolution in Bergen County.

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January, 2025 by the Municipal Council for the Borough of Englewood Cliffs as follows:

1. The foregoing recitals are incorporated herein as if set forth in full; and
2. The Borough of Englewood Cliffs hereby commits to a Round 4 Present Need Obligation of 0 units and Round 4 Prospective Need Obligation of 329 units as described in this resolution, subject to all reservations of rights set forth above; and
3. The Borough of Englewood Cliffs hereby directs King, Moench & Collins, its Affordable Housing Attorney, to file a declaratory judgment complaint in Bergen County within 48 hours after adoption of the within resolution; and

4. The Borough of Englewood Cliffs authorizes King, Moench & Collins 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; and

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

CERTIFICATION

I, Laura Borchers, Clerk of the Borough of Englewood Cliffs, County of Bergen, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Municipal Council for the Borough of Englewood Cliffs at a meeting held on January 28, 2025.



Laura Borchers, RMC, CMR
Borough Clerk

Members	Motion	Second	Ayes	Nayes	Abstain	Absent
Kim						X
Biegacz	X		X			
Liang		X	X			
Patel					X	
Koutroubas			X			
Mayor Park						

APPENDIX B

KING MOENCH & COLLINS, LLP

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973-998-6863 (facsimile)
Attorneys for the Borough of Englewood Cliffs

IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
ENGLEWOOD CLIFFS, COUNTY OF
BERGEN, STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

Docket No.:

Civil Action

**COMPLAINT FOR A DECLARATORY
JUDGMENT OF COMPLIANCE WITH
THE FAIR HOUSING ACT**

Plaintiff, Borough of Englewood Cliffs, a municipal corporation and body politic organized under the laws of the State of New Jersey (“Englewood Cliffs” or the “Borough”), with offices located at 482 Hudson Terrace, Borough of Englewood Cliffs, County of Bergen, State of New Jersey, by way of this Administrative Office of the Courts alleges and says:

BACKGROUND

1. Englewood Cliffs is a municipal corporation of the State of New Jersey.
2. The Planning Board of Englewood Cliffs (“Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan (“HEFSP”) of the Borough’s Master Plan.

3. Through this Declaratory Judgment Action, the Borough seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation:
- a. To secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (the “Act”) and the Court, pursuant to Directive #14-24;
 - b. To have the Program and the Court approve the Borough’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Borough, attached hereto as **Exhibit 1**;
 - c. To have the Program and the Court approve a HEFSP to be adopted by the Borough’s Planning Board and endorsed by the Borough’s Council, and issue a “Compliance Certification” pursuant to the Act or other similar declaration such as a judgment of compliance and repose;
 - d. To the extent it is not automatically granted pursuant to the Act, through the filing of this Declaratory Judgment Action and binding resolution, to have the Program and the Court confirm Englewood Cliffs’ immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, *i.e.*, through June 30, 2035; and
 - e. To have the Program and the Court take such other action(s) and grant such other relief as may be appropriate to ensure that Englewood Cliffs receive and obtain all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily

without having to endure the expense and burdens of unnecessary third party litigation.

COUNT ONE
(Establishment of Jurisdiction Under P.L. 2024, c. 2)

1. Englewood Cliffs repeats and reiterates the allegations set forth above as if set forth at length herein.
2. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq.
3. Among other things, the Act abolished the Council on Affordable Housing (“COAH”), and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the Administrative Office of the Courts (respectively, “Director” or “AOC”) to create a framework to process applications for a compliance certification.
4. On or about December 13, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking compliance certification to file an action in the form of a declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the Declaratory Judgment Action.
5. The Borough adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this Declaratory Judgment Action as **Exhibit 1**.

6. Based on the foregoing, the Borough has established the jurisdiction of the Program and the Court in regard to this Declaratory Judgment Action for a compliance certification as set forth hereinafter.

WHEREFORE, the Borough of Englewood Cliffs seeks a declaratory judgment for the following relief:

- (a) Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached hereto as **Exhibit 1** to this Declaratory Judgment Action or to adjust such determination consistent with the Act;
- (b) Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- (c) Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Borough's Planning Board and its endorsement by the Borough's Council, including, as appropriate and applicable: (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other

applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

(d) Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

(e) Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to Englewood Cliffs for the period beginning July 1, 2025 and ending June 30, 2035; and

(f) Declaring such other relief that the Program and the Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT TWO

(Determination of the Present and Prospective Need of the Borough of Englewood Cliffs)

1. Englewood Cliffs repeats and reiterates the allegations set forth above as if set forth at length herein.
2. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.
3. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

4. The DCA issued its report on October 18, 2024. Pursuant to the October 18, 2024 report, the DCA calculated the Borough's present and prospective affordable housing obligations as follows:

PRESENT NEED (REHABILITATION OBLIGATION)	FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)
0	329

5. The proposed non-binding Present Need obligation, also known as the rehabilitation obligation, represents the number of substandard existing deficient housing units in the municipality currently occupied by low- and moderate-income ("LMI") households.
6. The proposed non-binding Prospective Need obligation, is calculated as a share of the region in which the municipality is located.
7. Region 1, in which Englewood Cliffs is located, includes Bergen, Hudson, Passaic, and Sussex Counties.
8. As established by the Act, the regional Prospective Need is calculated by establishing the increase in households in the region between the 2020 and 2010 federal decennial Census, and dividing the household change increase by 2.5 to estimate the number of low- and moderate- income households (and the number of homes needed to address same).
9. Regional Prospective Need is allocated across the region by applying three factors:
- Equalized Nonresidential Valuation;
 - Income Capacity; and
 - Land Capacity.

10. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.
11. On January 28, 2025, the Council of the Borough of Englewood Cliffs adopted Resolution #25-27, accepting the Present Need obligation of 0 units and setting forth a Prospective Need obligation of 329 units as its Fourth Round (2025 to 2035) affordable housing obligation, accepting DCA’s calculation of 329 units. A true and accurate copy of Resolution #25-27 is attached hereto as **Exhibit 1**.
12. Englewood Cliffs seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1**.
13. Pursuant to the binding resolution, Englewood Cliffs reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.
14. The Borough’s determination of its affordable housing obligation has the presumption of validity as the determination was established in accordance with N.J.S.A. 52:27D- 304.2 and N.J.S.A. 52:27D-304.3.

WHEREFORE, the Borough of Englewood Cliffs seeks a declaratory judgment for the following relief:

- (a) Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set

forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Action;

- (b) Declaring the present and prospective affordable housing obligations of Englewood Cliffs under the Act;
- (c) Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Borough's Planning Board and its endorsement by the Borough's Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- (d) Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- (e) Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24

to the Borough for the period beginning July 1, 2025 and ending June 30, 2035;
and

(f) Declaring such other relief that the Program and the Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT THREE
(Housing Element and Fair Share Plan)

1. Englewood Cliffs repeats and reiterates the allegations set forth above as if set forth at length herein.
2. Pursuant to the Act, a Housing Element and Fair Share Plan (“HEFSP”) must be prepared and adopted by the Planning Board and endorsed by the municipality by June 30, 2025.
3. Englewood Cliffs hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 3) an adjustment of rehabilitation obligation based upon a windshield survey; 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Borough of Englewood Cliffs seeks a declaratory judgment for the following relief:

- (a) Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Action or to adjust such determination consistent with the Act;
- (b) Declaring the present and prospective affordable housing obligations of Englewood Cliffs under the Act;
- (c) Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Borough's Planning Board and its endorsement by the Borough's Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;