

**Township of South Hackensack
County of Bergen**

Resolution No. 2025—071 Committing to Comply with Affordable Housing Obligations

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter “Amended FHA”); and

WHEREAS, the Amended FHA requires the Department of Community Affairs (“DCA”) to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, Section 3 of the amended FHA provides that “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with Sections 6 and 7 of the amended FHA; and

WHEREAS, the DCA Report calculates the Borough’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 7 units and a Prospective Need or New Construction Obligation of 174 units; 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, pursuant to the FHA, in establishing its affordable housing obligation, a municipality must give consideration to the methodology and formulas used by the DCA in formulating its calculations as produced in the October 20, 2024 report, must describe the basis for its determination, and must bind the municipality to adopt a compliance housing element and fair share plan; and

WHEREAS, the Township accepts the formulas and methodologies employed by the DCA in generating regional present need and prospective need obligations; and

WHEREAS, in furtherance of the Amended FHA, the Township commits to adopting a compliance housing element and fair share plan prior to June 30, 2025 and within such plan, the Township will further examine the application of the regional present need obligation to the municipal level as authorized by the FHA through the use of a windshield survey; and

WHEREAS, in addition to the foregoing, nothing in the amended FHA requires or can require an increase in the Township’s Fourth Round obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Council finds that it is in the best interest of the Township to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of DCA issued Directive #14-24, dated December 13, 2024, pursuant to which 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 Township seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Bergen County.

NOW THEREFORE, BE, AND IT IS HEREBY RESOLVED that the above Whereas Clauses are incorporated into the operative clauses of this resolution.

BE IT FURTHER RESOLVED that the Township hereby commits to the DCA Round 4 Present Need Obligation of 7 units and the Round 4 Prospective Need Obligation of 174 units described in this resolution subject to all reservations of rights set forth above.

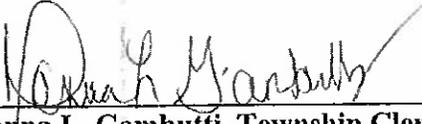
BE IT FURTHER RESOLVED that the Township hereby directs its Counsel to file a declaratory judgment complaint in Bergen County within 48 hours after adoption this resolution attaching this resolution.

BE IT FURTHER RESOLVED that the Township authorizes its Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

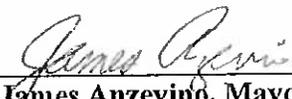
BE IT FURTHER RESOLVED this resolution shall take effect immediately, according to law.

Consent Agenda Resolution 2025-01A
January 23, 2025

ATTEST



Donna L. Gambutti, Township Clerk



James Anzevino, Mayor

**TOWNSHIP OF SOUTH HACKENSACK
FOURTH ROUND AFFORDABLE HOUSING REPORT**

JANUARY 2025



PREPARED BY NEGLIA GROUP

INTRODUCTION

On March 20, 2024, Governor Murphy signed P.L.2024, c.2 into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the State's Fair Housing Act.

This law required the Department of Community Affairs (DCA) to perform a calculation of regional need and municipal present and prospective need obligations in accordance with the formulas established in the law. The six (6) Housing Regions were derived from the Legislation and used various factors to determine the present and prospective need for each municipality, the methodology will be discussed in more detail later in this report.

The Township of South Hackensack is located in the southern portion of Bergen County, one of the four Counties that make up Housing Region 1. Housing Region 1 is comprised of Bergen, Hudson, Passaic, and Sussex Counties and is located in the northern most part of the State. Housing Region 1 has the largest combined population of the six (6) Housing Regions and the largest Present Need and Prospective Need in the State.

DCA provided the calculations and obligations for each municipality's present and prospective need in a non-binding document based strictly on data analysis. This report applies the methodology used by DCA and includes a narrower level of detail that may not have been available to the DCA during the initial calculations. Since, there is no standardized way for municipalities to report projects associated with the Third Round Housing Element, zoning board of adjustment and planning board decisions, or more "boots on the ground" specific information, municipalities are given the opportunity to provide this information when applying the DCA's methodology.

The DCA was limited to create a methodology that would be replicated throughout the state across many different municipalities. Using the methodology and the application of municipal specific information we believe there are certain calculations that shall be amended to provide a more accurate obligation for the Township of South Hackensack.

DCA METHODOLOGY

Present Need is determined based on the number of existing housing units occupied by low- and moderate- income (LMI) households that are substandard and deficient. The Present Need for third round was determined by three factors: dwelling units lacking complete kitchen facilities, dwelling units lacking complete plumbing facilities, and overcrowded units. While these three metrics have data that tracks them independently, there is no measure accounting for overlap or for their impact to LMI households exclusively. This is the measure that Present Need seeks to address. It shall be noted that DCA strictly used census data estimates and the number is not based on actual units that have been inspected for the criteria.

We shall further address this obligation and strategy in the Fourth Round Housing Element. Therefore, it is determined that the present need obligation is as follows:

Present Need: 7

Prospective Need the DCA determined the prospective need based on three (3) equalized factors averaged into an average allocation factor for each municipality. The average allocation factor for each municipality was then multiplied by the regional prospective need to determine each municipality’s prospective need obligation. The three (3) factors used to determine the average allocation were Equalized Nonresidential Valuation (33.33%), Income Capacity Factor (33.33%), and the Land Capacity Factor (33.33%).

Equalized Nonresidential Valuation Factor: 1.62%

Equalized Nonresidential Valuation Factor is determined by the change in commercial and industrial property valuations from the beginning of the last round and the start of the current round. Therefore, the years being compared are 1999 and 2023, with data from the NJ Division of Local Government Services. For each year being compared, the commercial and industrial valuations were added together and then adjusted by that year’s State Equalization Table Average Ratios. These equalized nonresidential valuations were then used to calculate the change over the 24 years. Each municipality’s values were aggregated to the Housing Region level minus the valuation changes in Qualified Urban Aid municipalities. The Equalized Nonresidential Valuation Factor is the resulting percentage from dividing the municipality’s 24-year change in equalized nonresidential valuations by the adjusted aggregated Housing Region total. Municipalities that experienced increased commercial and industrial valuation received higher obligations according to DCA’s method. For the Township of South Hackensack, the Equalized Nonresidential Valuation Factor is calculated to be 1.62%. A summary of the calculation is as follows.

$$1.62\% = \frac{(86,225,300 + 577,305,600) \times 0.8832 - (32,919,200 + 168,772,100) \times 0.9001}{32,549,128,394}$$

Where:

- 1.62%** = Equalized Nonresidential Valuation Factor for South Hackensack
- 0.8832** = 2023 State Equalization Table Average Ratio for South Hackensack
- 86,225,300** = 2023 Commercial Valuation for South Hackensack
- 577,305,600** = 2023 Industrial Valuation for South Hackensack
- 0.9001** = 1999 State Equalization Table Average Ratio for South Hackensack
- 32,919,200** = 1999 Commercial Valuation for South Hackensack
- 168,772,100** = 1999 Industrial Valuation for South Hackensack
- 32,549,128,394** = 1999 – 2023 Change in Equalized Nonresidential Valuation minus Qualified Urban Aid municipalities for Housing Region 1

Land Capacity Factor: 0.00%

The Land Capacity Factor was computed with 2024 MOD-IV Property Tax list from the Division of Taxation in the Department of Community Affairs. All parcels classified as vacant were included in the initial list. Next, DCA used the land use/land cover (LULC) data courtesy of the New Jersey Department of Environmental Protection and construction permit data from DCA. Using this data in ArcGIS, Land Capacity Factor is calculated by dividing the total developable land for each municipality by the total for the Housing Region excluding that area from the Qualified Urban Aid municipalities. For the Township of South Hackensack, the Land Capacity Factor is calculated to be 0.00%. A summary of the calculation is as follows.

$$0.00\% = \frac{0.058}{1,980}$$

Where:

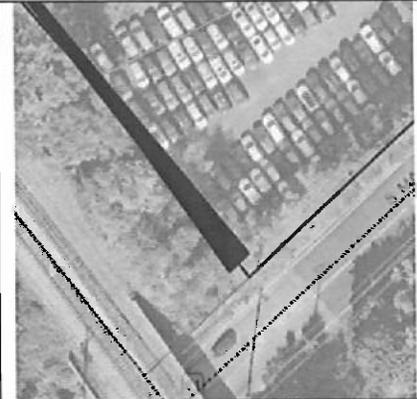
0.00% = Land Capacity Factor for South Hackensack

0.058 = Land Use/Land Cover Methodology Land Area for South Hackensack

1,980 = Total Developable Land for Housing Region 1

AMENDMENT - The DCA's methodology was strictly a data analysis that was limited by the information DCA was able to use to determine the land capacity of each municipality. Since, there is not a standardized method for municipalities to report court settlements from the third round or decisions made by the zoning board of adjustment and planning board properties included in the land capacity may not actually be developable or have already been allocated for development. Upon reviewing the DCA's Land Capacity layers on GIS we have determined a number of the sites are not developable.

| NJ DCA Layer – Land Capacity Analysis for P.L. 2024, c.2 Parcels | |
|---|---|
|  | <p>Block: 102 Lot: 40 Land Capacity Area: 0.05 Acres Property Owner: Conдеми international Co. Inc. Property Class: 1 Current Use: Car dealership with surface parking lot Notes: This property is identified as a contaminated lot, habitat location, historic location, and is located in the FEMA Flood Hazard Zone. The GIS dataset does not align correctly with the aerial image and is likely causing the area to appear vacant. This lot should not be included in the land capacity calculation.</p> |

| NJ DCA Layer – Land Capacity Analysis for P.L. 2024, c.2 Parcels | |
|--|--|
|  | <p>Block: 102 Lot: 61.01 Land Capacity Area: 0.00 Acres Property Owner: N.J. Transit Corp. Property Class: 4A Current Use: Wooded buffer along railway Notes: The GIS dataset does not align correctly with the aerial image and is likely causing the area to appear vacant. This lot should not be included in the land capacity calculation.</p> |
|  | <p>Block: 102 Lot: 64 Land Capacity Area: 0.01 Acres Property Owner: Home Realty Hackensack LLC Property Class: 15F Current Use: Commercial building and accompanying surface parking lot Notes: The GIS dataset does not align correctly with the aerial image and is likely causing the area to appear vacant. This lot should not be included in the land capacity calculation.</p> |

Therefore, we believe the Land Capacity factor should be adjusted to reflect the information provided. Using the additional data from the Township’s records we believe the following calculation is correct:

$$0.00\% = \frac{0.00}{1,980}$$

Where:

0.00% = Land Capacity Factor for South Hackensack

0.00 = Land Use/Land Cover Methodology Land Area for South Hackensack

1,980 = Total Developable Land for Housing Region 1

Income Capacity Factor: 0.26%

The **Income Capacity Factor** measures the difference between a municipality’s income level and that of the municipality with the lowest-income level in its Housing Region. It is an average of two percentages. The first percentage is the amount that the municipality contributes to the regional difference of income compared to the regional income floor. The second percentage is the municipality’s contribution to the regional difference of income compared to the regional income floor, weighted by the number of

households within the municipality. Qualified Urban Aid municipalities were excluded from these calculations. For South Hackensack, located in Housing Region 1, the lowest municipal median household income is Paterson City. Paterson City’s median household income is \$52,092. Housing Region 1’s median household income floor is calculated by subtracting \$100 from the figure of \$52,092, resulting in \$51,992. This is the value in which South Hackensack’s median household income will be compared. For the Township of South Hackensack, the Income Capacity is calculated to be 0.26%. A summary of the calculation is as follows.

$$0.26\% = \frac{\frac{918 * (87,813 - 51,992)}{33,410,794,107} + \frac{87,813 - 51,992}{8,355,312}}{2}$$

Where:

0.26% = Income Capacity Factor for South Hackensack

918 = Number of Households in South Hackensack

87,813 = Median Household Income in South Hackensack

51,992 = Median Household Income Floor for Housing Region 1

33,410,794,107 = Total Median Household Income Differences times Households for Housing Region 1

8,355,312 = Median Household Income Differences for Housing Region 1

Average Allocation Factor: 0.63%

The **Average Allocation Factor** is calculated by averaging three metrics: Equalized Nonresidential Valuation Factor, Land Capacity Factor, and the Income Capacity Factor. For Qualified Urban Aid municipalities, this average was zero as they have no obligation. Municipalities with an average greater than zero, the Average Allocation Factor was multiplied by The Prospective Need for their respective Housing Region to determine the Prospective Need of the municipality. For the Township of South Hackensack, the Average Allocation Factor is calculated to be 0.63%. A summary of the calculation is as follows.

$$0.63\% = \frac{1.62\% + 0.00\% + 0.26\%}{3}$$

Where:

0.63% = Average Allocation Factor for South Hackensack

1.62% = Equalized Nonresidential Valuation Factor for South Hackensack

0.00% = Land Capacity Factor for South Hackensack

0.26% = Income Capacity Factor for South Hackensack

Prospective Need: 174

The Prospective Need for the Township of South Hackensack has been calculated to be 174 units. This calculation multiplied the Prospective Need of Housing Region 1 by the Average Allocation Factor for the Township of South Hackensack. A summary of the calculation is as follows.

$$174 = 0.63\% * 27,743$$

Where:

174 = The Prospective Need of Affordable Housing in South Hackensack

0.63% = Average Allocation Factor for South Hackensack

27,743 = The Prospective Need for Housing Region 1

AMENDMENT – Since, the land capacity factor appears to be incorrect based on the mapping provided by DCA we believe that the Average Allocation Factor and Prospective Need calculation would also need to be revised. A summary of the calculation is as follows:

Amended Average Allocation Factor: 0.63%

$$0.63\% = \frac{1.62\% + 0.00\% + 0.26\%}{3}$$

Where:

0.63% = Average Allocation Factor for South Hackensack

1.62% = Equalized Nonresidential Valuation Factor for South Hackensack

0.00% = Land Capacity Factor for South Hackensack

0.26% = Income Capacity Factor for South Hackensack

Amended Prospective Need

$$174 = 0.63\% * 27,743$$

Where:

174 = The Prospective Need of Affordable Housing in South Hackensack

0.63% = Average Allocation Factor for South Hackensack

27,743 = The Prospective Need for Housing Region 1

Regional Prospective Need Calculation: 27,743

The Prospective Need for the six Housing Regions was determined based on the rate of change in population over the course of ten (10) years. With population data from the 2010 and 2020 Decennial Census, the change is calculated and then divided by 2.5 an assumed factor of Low- and Moderate- Income household growth. This calculation was done for each Housing Region to determine the Prospective Need. For Housing Region 1, the Regional Prospective Need is calculated to be 27,743. A summary of the calculation is as follows.

$$27,743 = \frac{(873,062 - 803,704)}{2.5}$$

Where:

27,743 = Regional Prospective Need for Housing Region 1

873,062 = 2020 Households – Decennial Census for Housing Region 1

803,704 = 2010 Households – Decennial Census for Housing Region 1

2.5 = Factor for Assumed Low- and Moderate- Income Household Growth

CONCLUSION

Department of Community Affairs released non-binding obligations for affordable housing for each municipality in the state. By releasing non-binding numbers the DCA offered municipalities the opportunity to provide additional information that may result in amending the numbers calculated by DCA. Based on the information provided in the Department of Community Affairs Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, the Township of South Hackensack Housing Element and Fair Share Plan, Zoning Board of Adjustment Decisions, and Planning Board Decisions, we believe the calculations shall be amended to identify the inconsistencies found within the datasets. Specifically, the Land Capacity Factor which included property that is not capable of being developed or already being developed.

The Township of South Hackensack’s present need obligation shall be **7 units**, the same obligation provided by DCA. However, the Township’s prospective need shall be **174 units** as provided by the DCA. While we

do not believe all of the lands identified in the land capacity analysis should be included the amendments do not change the prospective need as the other two factors are still present. It is in the Township's best interest to accept the numbers and not file a declaratory judgment to have the numbers changed. Additionally, the Township's Fourth Round Affordable Housing Element will further investigate Vacant Land Capacity and the Realistic Development Potential for the municipality.