

TOWN OF HACKETTSTOWN  
WARREN COUNTY, NEW JERSEY

RESOLUTION # 2025-22

**RESOLUTION REGARDING FAIR SHARE AFFORDABLE HOUSING OBLIGATIONS  
FOR THE FOURTH ROUND**

**WHEREAS**, the New Jersey Supreme Court, through its rulings in Southern Burlington County NAACP v. Mount Laurel, 67 13 N.J. 151 (1975) and Southern Burlington County NAACP 14 v. Mount Laurel, 92 N.J. 158 (1983), has determined that every municipality in New Jersey has a constitutional obligation to provide through its land use regulations a realistic opportunity for its fair share of its region's present and prospective needs for housing for low- and moderate-income families; and

**WHEREAS**, 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 New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et al.); and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality must adopt a binding resolution no later than January 31, 2025 determining its present and prospective fair share obligation for the Fourth Round; and

**WHEREAS**, pursuant to Administrative Directive #14-24 issued by the Administrative Office of the Courts on December 13, 2024, "[a] municipality seeking a certification of compliance with the [Fair Housing Act] shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (Civil CIS) in the county in which the municipality is located" within 48 hours of adopting the municipal resolution of fair share obligations; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(d), the New Jersey Department of Community Affairs issued "a report on the calculations of regional need and municipal obligations for each region of the State" on or about October 18, 2024 (the "DCA Report"); and

**WHEREAS**, on or about November 20, 2024, DCA provided a GIS data set that was used to calculate each municipality's land capability factor in the DCA Report.

**WHEREAS**, the webpage associated with such data set (<https://njdca.maps.arcgis.com/home/item.html?id=12acdfe0a5104f8f8a2f604e96063e74>) notes:

The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. *It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to*

*provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.* (emphasis added).

**WHEREAS**, the DCA Report set the municipal obligation for Hackettstown as follows:

Present Need: 87

Prospective Need: 105

**WHEREAS**, the Town accepts the conclusions set forth in the DCA Report, except those regarding the land capacity allocation factor applicable to Hackettstown; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(a), a municipality may determine its present and prospective fair share obligation for affordable housing consistent with the established methodologies; and

**WHEREAS**, DCA maintains that the areas the DCA identified as developable may be “overinclusive;” and

**WHEREAS**, the Town’s Professional Planner, has determined that such data set is “overinclusive” and has prepared a report dated January 29, 2025 stating such, which is attached hereto as Exhibit A; and

**WHEREAS**, the data compiled by DCA to calculate the Town’s “land capacity factor” erroneously included approximately 6.336368 acres as vacant and developed land as outlined in the attached report from the Town Planner (**Exhibit A**); and

**WHEREAS**, removing such property from the inventory of vacant land in the Town reduces the total vacant land from 10.522 acres to 4.185632 acres and the land capacity factor from 0.2% to 0.12%, as outlined in the report attached hereto as **Exhibit A**; and

**WHEREAS**, the correction of the land capacity factor and the average allocation factor reduces the Town’s prospective affordable housing obligation from *105 to 100*, as outlined in the report attached hereto as **Exhibit A**; and

**WHEREAS**, N.J.S.A. 52:27D-304.1(f)(1)(b) 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 P.L. 2024, c. 2...” and

**WHEREAS**, the Town’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of P.L. 2024, c. 2; and

**WHEREAS**, the Town specifically reserves its rights to:

- a. Adjust the Town’s fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), Highlands Build Out Analysis, a structural conditions survey pursuant to N.J.A.C.

5:93-5.2(a), and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law;

- b. Revoke or amend this Resolution and the Town's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
- c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third party challenge to the Town's Fourth Round Affordable Housing Obligations.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Town of Hackettstown, Warren County, New Jersey, as follows:

2. The Town of Hackettstown hereby determines, based on the DCA Report, corrections to the data utilized therein, and advice of the Municipal Planner and Attorney, to adopt the following obligations as its binding Fourth Round Affordable Housing Obligations:

Present Need: 87

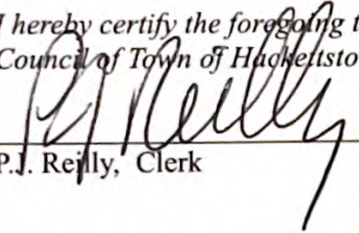
Prospective Need: 100

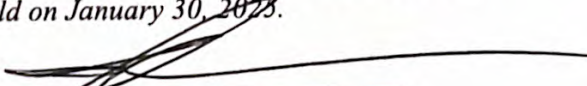
3. The adoption of this Resolution and the aforementioned Fourth Round Affordable Housing Obligations is subject to all reservations of rights, which specifically include, without limitation, the following:
  - a. The right to adjust the Town's fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), Highlands Build Out Analysis, a structural conditions survey pursuant to N.J.A.C. 5:93-5.2(a), and all other applicable adjustments, permitted in accordance with applicable statute, regulations or law with such adjustments to be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.;
  - b. The right to revoke or amend this Resolution and the Town's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
  - c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third party challenge to the Town's Fourth Round Affordable Housing Obligations.
4. The Municipal Clerk and Municipal Attorney are authorized to take all actions required by N.J.S.A. 52:27D-304.1(f)(1)(b), including:
  - a. Filing a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement, in the appropriate venue with the Program or any other

such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution pursuant to the requirements of P.L.2024, c.2, and AOC Directive #14-24

- b. Publishing this Resolution on the Town's website.
5. The Municipal Attorney, Municipal Planner, and Planning Board are authorized to take all actions to draft documents necessary to comply with all Fourth Round affordable housing obligations, including drafting a Housing Element and Fair Share Plan, an Affordable Housing Trust Fund Spending Plan, and effectuating ordinances and resolutions.
  6. This Resolution shall take effect immediately.

*I hereby certify the foregoing to be a true copy of a Resolution adopted by the Mayor and Council of Town of Hackettstown at a meeting held on January 30, 2025.*

  
\_\_\_\_\_  
P.J. Reilly, Clerk

  
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Jerry DiMaio, Mayor

Shelbourne at Hunterdon  
53 Frontage Road, Suite 110  
Hampton, New Jersey 08827  
Main: 877 627 3772



## Memorandum

To: Town of Hackettstown  
From: Daniel N. Bloch, PP, AICP, EADA  
Date: January 29, 2025  
Subject: Fourth Round Allocation Factors  
Project No.: HKL0030

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P.L. 2024, c.2 specifies the formula and process by which Fourth Round affordable housing obligation numbers are to be calculated. The Department of Community Affairs (DCA) was charged with the preparation of the Fourth Round numbers. DCA published their report on or about October 18, 2024. It was accompanied by a detailed spreadsheet illustrating the various calculations used in determining the Fourth Round affordable housing obligations. The spreadsheet includes a tab for each of the three allocation factors (land capacity, equalized non-residential valuation, and income). However, the spreadsheet only noted an aggregated acreage value for each town. Detailed Geographic Information Systems ("GIS") mapping illustrating the location of the developable areas was not released until November 27, 2024.

The allocation process starts with a state-wide number. DCA has calculated this number to be 84,698. This number is allocated amongst the six affordable housing regions. Hackettstown is located in Region 2 – Essex, Morris, Union, and Warren. Region 2 has a Fourth Round obligation of 20,506.

The regional need is then distributed to the non-urban aid municipalities based on three allocation factors:

- Equalized Non-residential Valuation
- Income Capacity
- Land Capacity

Equalized non-residential valuation is determined by the change in value for commercial and industrial parcels between 1999 and 2023. The Township value change is divided by the change in value of Region 2, which produces a percentage. This percentage is the Equalized Non-residential Valuation factor.

Income capacity measures the extent to which the Township's income level differs from that of the lowest-income municipality in its Region. For Region 2, Newark has the lowest median income. The analysis reviews the income difference and does account for number of households in each community. Once again, each community is compared to the Region's aggregate median income difference. Essentially, the higher median income a community has, the higher percentage it is allocated.

Land capacity estimates the total acreage that is developable based on 2020 aerial imagery. The Township's developable acreage is divided by the Region's total acreage, which produces a percentage. This percentage is the Land Capacity factor.

The three factors are then averaged for each community. That average is then multiplied by the obligation for the municipality's Region.

The information below summarizes the three allocation factors and the average allocation assigned to Hackettstown Township.

- Non-residential ~ 0.81%
- Land Capacity ~ 0.20%
- Income ~ 0.52%
- Average allocation is 0.51%; therefore, the Fourth Round Obligation is 105 (0.51% x 20,506)

DCA provided a detailed excel workbook with their data inputs and calculations. Below is a summary of the data we reviewed and our findings.

#### **Equalized Non-residential Valuation**

- 2023 commercial and industrial values are correct (total = \$285,683,500)
- 2023 State Equalization Table Average Ratio – 84.76% from state table on website is correct
- 1999 commercial and industrial values are correct (total = \$114,744,000)
- 1999 State Equalization Table Average Ratio – 90.4% is correct
- The calculations for Hackettstown are correct

#### **Income Capacity**

- 2022 number of households is correct (3,698) [2023 number of households is 3,790]
- 2022 median income is correct (\$95,174) [2023 median income is \$91,250]
- Regional 2 minimum median income was Newark with \$46,460, correct
- Difference from median household floor with household weight is correct
- Household weighted income difference percentage is correct
- Difference from median household income floor is correct
- Income difference percentage of region is correct
- Income capacity allocation calculations for Hackettstown Township are correct
- *DCA used 2022 5-year data, which was the latest available. 2023 5-year data was released today and is included above in brackets for reference but not used in calculations.*

#### **Land Capacity**

- Table states 10.522 acres – we do not agree with this
  - The DCA GIS data identifies 14 areas within the Township as developable. These areas total 10.522 acres according to the GIS data. Each area has been assigned a unique "ObjectID" or identification number. The table attached as **Exhibit A** lists each area's

identification number (see column "DCA ObjectID"), and the associated vacant acres identified by DCA.<sup>1</sup> Our office then added a column to identify the block(s) and lot(s) each area encompasses. We then reviewed each area to confirm if it was developable as it stands at the time of this review. Our findings for each of the 14 areas is provided under "Comments". Finally, the table contains a column labeled "Adjusted Developable Acres" based upon the results of our area-by-area analysis.

This detailed evaluation reveals that only 4 of the 14 identified areas are developable. The developable areas encompass 4.185632 acres. Therefore, Hackettstown's developable acreage is 4.18 acres, not 10.522 acres. When this corrected acreage data is entered into DCA's excel spreadsheet<sup>2</sup> the Township's Land Capacity Factor decreased from 0.2% to 0.12%. The Township's Average Allocation Factor decreased from 0.51% to 0.49% and, accordingly, Hackettstown's Fourth Round Obligation is reduced to 100 units.

Based upon our review of the data for Hackettstown Township, the GIS analysis prepared by DCA has the following shortcomings:

- It does not capture conservation easements or deed restrictions.
- It fails to account for a lack of street frontage.
- It is blind to block and lot lines and identifies portions of existing developed sites as developable. Many of these instances occur in rear and side yard setback areas.
- It fails to account for area shape and size. For example, areas as narrow as 5 feet are identified as developable.
- It does not take into account utility easements.

Our analysis has identified discrepancies with the data for the allocation factors, specifically the land capacity factor. Once analyzed and updated to reflect the status of developable land, the land capacity factor was reduced which led to a reduction to the overall average allocation factor. Therefore, there was a decrease in the calculated obligations for the Township. As a result, we have reason to object to the Fourth Round obligation DCA has calculated for Hackettstown and request that the obligation be reduced to 100 units.

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<sup>1</sup> Note that the DCA GIS attribute table labels this column as "vacant acres" not developable acres.

<sup>2</sup> [https://www.nj.gov/dca/dlps/4th\\_Round\\_Numbers.shtml](https://www.nj.gov/dca/dlps/4th_Round_Numbers.shtml)

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## Exhibit A: DCA Land Capacity Factor Analysis

DCA ObjectID	Weighted Acres	Vacant Acres	Block(s) / Lot(s)	Comments	Adjusted Developable Acres
30099	0.90085	0.90085	B107/L21	Selection has frontage on an unimproved right-of-way. Selection is developable.	0.90085
30100	2.170823	2.170823	B3.01/L1	This selection part of a developed house of worship property. Selection is not developable.	0
30101	0.222844	0.222844	B45/L4.01	Selection is part of the Hackettstown Community Hospital campus. Selection is developable.	0.222844
30102	2.585275	2.585275	B45/L4.01	Selection is part of the Hackettstown Community Hospital campus. Selection is developable.	2.585275
30103	0.476753	0.476753	B118/L1 &5	Selection is vacant with access to roadway. Area is developable	0.476663
30104	0.402935	0.402935	B4/L5.01	Selection is a narrow strip of land along the railroad right-of-way with no street frontage. Not developable.	0
30105	0.166056	0.166056	B45/L2	This parcel is currently under construction for an inclusionary housing development.	0
30106	0.094564	0.094564	B4/L5.01 & L2	Selection is a narrow strip of land along the railroad right-of-way with no street frontage. Not developable.	0
30107	0.22228	0.22228	B45/L2	This parcel is currently under construction for an inclusionary housing development.	0
30108	0.972406	0.972406	B45/3.01 & 3.02	This area is within 1000 feet of a vernal pool. Not developable.	0
30109	0.279592	0.279592	B4/L6	Selection is a narrow strip of land along the railroad right-of-way with no street frontage. Not developable.	0
30110	0.315887	0.315887	B4/L5	Selection is part of an existing development in adjacent municipality. Not developable	0
30111	0.214255	0.214255	B44/L4.01	Selection is irregularly shaped with no access to a roadway due to slope constraints. Area is undevelopable	0
30112	1.497876	1.497876	B44/L4.01	Parcel has vested development approvals and is not considered developable.	0
<b>Total</b>		<b>10.522396</b>			<b>4.185632</b>