

**MAYOR AND COUNCIL
OF THE
BOROUGH OF WALDWICK
Bergen County, New Jersey**

RESOLUTION NO. 2025-60

A BINDING RESOLUTION OF THE BOROUGH OF WALDWICK, COUNTY OF BERGEN, COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED AND DIRECTING THE BOROUGH ATTORNEY TO TAKE APPROPRIATE ADDITIONAL ACTIONS

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 required the Department of Community Affairs ("DCA") to produce "non-binding" estimates of fair share obligations on or before October 20, 2024; and

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

WHEREAS, the DCA Report calculates the Borough of Waldwick's ("Waldwick") Round 4 (2025-2035) obligations as follows: a Present Need or "Rehabilitation Obligation" of 19 and a Prospective Need or "New Construction Obligation" of 178; 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, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and

WHEREAS, Waldwick has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based on the foregoing, Waldwick relies on the DCA calculations of Waldwick's fair share obligations as modified herein to account for Waldwick's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by Waldwick's affordable housing planner, and Waldwick seeks to commit to provide its fair share of 19 units present need and 147 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, Waldwick reserves the right to take action to comply with any additional amendments to the FHA, judicial rulings, and/or future Administrative Directives; and

WHEREAS, Waldwick 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 either already filed or that will be filed 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, Waldwick reserves the right to take such position as it deems appropriate in response thereto, including a declaration that its Round 4 Present or Prospective Need obligations are lower than set forth herein; and

WHEREAS, in light of the above, the Governing Body of the Borough of Waldwick finds that it is in the best interest of the Borough to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, 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, in accordance with AOC Directive #14-24 dated December 13, 2024, Waldwick finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Waldwick to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

WHEREAS, Waldwick seeks a certification of compliance with the FHA and, therefore, directs its Borough Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in the appropriate vicinage.

NOW, THEREFORE, BE IT RESOLVED on this 28nd day of January, 2025 by the Governing Body of the Borough of Waldwick as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.

2. The Borough of Waldwick hereby commits to the DCA Round 4 Present Need Obligation of 19 units and a modification of the DCA's Round 4 Prospective Need Obligations of 147 as explained above and in the attached memo from Waldwick's affordable housing planner and subject to all reservations of rights set forth above.
3. The Borough of Waldwick hereby directs its Borough Counsel to file a declaratory judgment complaint in the appropriate vicinage within 48 hours after adoption of this resolution and attaching this resolution as an exhibit with the attached memo.
4. The Borough of Waldwick directs its Borough Counsel (a) to attach this resolution as an exhibit to the aforementioned declaratory judgment action; (b) to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate; and (c) to take any other actions as necessary and according to law.
5. This resolution shall take effect immediately, according to law.

Resolution No. 2025-60

Offered by Mr. Ritchie

Seconded by Mr. Martinello

I, Kelley Halewicz, R.M.C., Borough Clerk of the Borough of Waldwick, do hereby certify that the foregoing Resolution was adopted at a Regular Meeting of the Governing Body of the Borough of Waldwick, held this 28th day of January, 2025 and in witness whereof I have hereunder set my hand and official seal on this date written.



 KELLEY HALEWICZ, RMC/CMC, BOROUGH CLERK

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brennecke			X			
Cericola-Drake			X			
Martinello		X	X			
Ramundo			X			
Ritchie	X		X			
Weber			X			
Mayor Giordano						