

RESOLUTION 2025-43

**COMMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS
FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND
PROSPECTIVE NEED NUMBERS**

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

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

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

WHEREAS, the DCA Report calculates Colts Neck Township’s Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need Obligation of 101; 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 Fourth Round 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 the Council on Affordable Housing (“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 empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, Kyle + McManus Associates, the Township’s affordable housing planning consultant, has reviewed the data utilized by the DCA and has recommended that the Township accept the Prospective and Present Need calculations published by the DCA on October 18, 2024; and

WHEREAS, Colts Neck Township accepts and commits to the present need number and Fourth Round Prospective Need number that the DCA reported on October 18, 2024, subject to various other rights; and

WHEREAS, in accordance with N.J.S.A. 52:27D-311(m) of the Amended FHA, Colts Neck Township intends to invoke its right to a durational adjustment, which will result in an adjustment to the Prospective Need number that the DCA reported on October 18, 2024; and

WHEREAS, substantial activity has occurred surrounding the Amended FHA and is ongoing since the Amended FHA was signed into law that warrants Colts Neck Township explicitly reserving certain rights to avoid any claim that it has waived them; and

WHEREAS, for example, the New Jersey Institute of Local Government Attorneys (“NJILGA”) has expressed its support for legislation (hereinafter “NJILGA Legislation”) which, if adopted, would reduce Colts Neck Township’s Fourth Round Prospective Need from 101 to 22 and would provide Colts Neck Township with “90 days from receipt of revised fair share obligations from the [DCA] to provide an amended Housing Element and Fair Share Plan addressing the new number; and

WHEREAS, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-24) (hereinafter, the “Montvale Litigation”) seeking to challenge a number of aspects of the Amended FHA and the outcome of that litigation is uncertain; and

WHEREAS, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

WHEREAS, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

WHEREAS, in light of the above, the Township Committee of Colts Neck Township finds that it is in the best interest of Colts Neck 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, Colts Neck Township commits to its fair share of a Present Need or Rehabilitation Obligation of 0 and a Prospective Need Obligation of 101 subject to an intent to invoke its right to a durational adjustment as well as its right to secure a vacant land adjustment and other adjustments that it may seek as part of the Housing Element and Fair Share Plan that Colts Neck Township will subsequently submit in accordance with the Amended FHA; and

WHEREAS, Colts Neck Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact, as well as the NJILGA Legislation if the Legislature enacts it; and

WHEREAS, Colts Neck Township also reserves the right to adjust its position in the event of any rulings in the Montvale Litigation or any other such litigation or 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, Colts Neck Township reserves the right to take such position as it deems appropriate in response thereto, including that its Fourth Round Present or Prospective Need Obligations should be lower than described 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, Colts Neck Township seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel, Chiesa Shahinian & Giantomasi PC (hereinafter "Affordable Housing Counsel") to file a declaratory relief action within 48 hours of the adoption of this resolution in Monmouth County.

NOW, THEREFORE, BE IT RESOLVED on this 29th day of January 2025 by the Township Committee of Colts Neck Township as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution as if set forth in full.

2. Colts Neck Township hereby commits to the DCA Fourth Round Present Need Obligation of 0 units and the Fourth Round Prospective Need Obligation of 101 units described in this resolution, subject to all reservations of rights set forth above, which specifically include:

- a) The right to a durational adjustment, vacant land adjustment and other adjustments in accordance with COAH regulations (including regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH);
- b) The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligation;

- c) The right to adjust its obligation in the event of any future legislation that adjusts the obligations the DCA reported on October 18, 2024;
- d) The right to comply with any future Legislation or court decisions that change Colts Neck Township’s affordable housing obligations under current law;
- e) The right to adjust its obligations based upon any ruling in the Montvale Litigation or other action or litigation; and
- f) The right to adjust its obligations in the event of a third-party challenge to the obligations and the Township’s response thereto, including the right to take such position as Colts Neck Township deems appropriate in response to a third-party challenge, including that Colts Neck Township’s Fourth Round Present and Prospective Need Obligations should be lower than described herein.

3. Colts Neck Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Monmouth County within 48 hours after adoption this resolution, attaching this resolution.

4. Colts Neck Township authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. Colts Neck Township further authorizes its professionals to prepare a Fourth Round Housing Element and Fair Share Plan and present the same for consideration and possible adoption by the Township Committee prior to June 30, 2025.

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

CERTIFICATION

I, Trina Lindsey, do hereby certify the foregoing to be a true and accurate copy of a Resolution passed by the Township Committee of Colts Neck Township during the Reorganization meeting held on the 29th day of January 2025



Trina Lindsey, Municipal Clerk

RECORD OF VOTE						
	M	S	Yes	No	NV	Ab
Mayor Torchia Buss			X			
Deputy Mayor Viola	M		X			
Buzzetta			X			
Fitzpatrick			X			
Rizzuto		S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						