

January 21, 2025

BOROUGH OF BRADLEY BEACH

RESOLUTION 2025-65

RESOLUTION OF THE BOROUGH OF BRADLEY BEACH COMMITTING TO THE BOROUGH'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION.

WHEREAS, on March 20, 2024, Governor Philip D. 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 abolished the Council on Affordable Housing, also known as COAH, and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "DRP"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate 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 Bradley Beach's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 64 and a Prospective Need or New Construction Obligation of 30; 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 "all 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, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey

WHEREAS, based on the foregoing, the Borough of Bradley Beach accepts the DCA calculations of the Borough's fair share obligations and commits to its fair share of 64 units present need and 30 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized 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 Bradley Beach reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough of Bradley Beach 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 litigation or legislative 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 Bradley Beach reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Round 4 Present or Prospective Need 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, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Mayor and Council of the Borough of Bradley Beach finds that it is in the best interest of the Borough of Bradley Beach 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 the Administrative Office of the Court 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 Bradley Beach 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.

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025 by the Council of the Borough of Bradley Beach as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. For the reasons set forth in this resolution, the Borough of Bradley Beach hereby commits to the DCA Round 4 Present Need Obligation of 64 units and the Round 4 Prospective Need Obligation of 30 units described in this resolution, subject to all reservations of rights set forth above.
3. The Borough of Bradley Beach 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. The Borough of Bradley Beach 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. This resolution shall take effect immediately, according to law.

Seconded by Councilperson _____ and adopted on roll call by the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Ms. DeNoble				
Ms. Greenblatt				
Mr. Nowicki				
Mr. Weber				
Mayor Gubitosi				

CERTIFICATION

I, Erica Kostyz, Municipal Clerk, Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Governing Body at the January 21, 2025 Special Council Meeting.