

**Independence Township Committee
Special Meeting Agenda
January 25, 2025
10:00 am**

Call to Order, Flag Salute, Open Public Meetings Act

Roll Call: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano

Resolution:

RESOLUTION # 25-15

**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=12acdf0a5104f8f8a2f604e96063e74>) 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 Independence Township as follows:

Present Need: 6
Prospective Need: 65

WHEREAS, the Township accepts the conclusions set forth in the DCA Report, except those regarding the land capacity allocation factor applicable to Independence; 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 Township’s Professional Planner, has determined that such data set is “overinclusive” and has prepared a report dated January 20, 2025 stating such, which is attached hereto as Exhibit A; and

WHEREAS, the data compiled by DCA to calculate the Township’s “land capacity factor” erroneously included approximately 23.56 acres as vacant and developed land as outlined in the attached report from the Township Planner (**Exhibit A**); and

WHEREAS, removing such property from the inventory of vacant land in the Township reduces the total vacant land from 23.56 acres to 0 acres, 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 Township’s prospective affordable housing obligation from **65 to 35**, 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 Township’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 Township specifically reserves its rights to:

- a. Adjust the Township’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, and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law;
- b. Revoke or amend this Resolution and the Township’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 Township’s Fourth Round Affordable Housing Obligations.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Independence, Warren County, New Jersey, as follows:

2. Independence Township 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: 6
Prospective Need: 35

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 Township’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, 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 Township’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 Township'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 Township'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.

Mrs. Kelsey made a motion to approve the passage of Resolution 25-15, which was seconded by Mayor Giordano.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano

Nays: None

Absent: None

Abstain: None

Mrs. Kelsey made a motion to adjourn the Special Meeting to discuss Affordable Housing, which was carried by all.