

**BOROUGH OF BUENA
COUNTY OF ATLANTIC**

RESOLUTION NO. 37-25

**A RESOLUTION COMMITTING TO DCA'S 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, pursuant to the Amended FHA, municipalities are required to determine the Present Need obligation (Rehabilitation) and Prospective Need obligation (New Construction) of their fair share of the regional need for affordable housing ("**Fair Share Obligation**") during the 10-year period beginning on July 1, 2025 (the "**Fourth Round**"); and

WHEREAS, pursuant to the Amended FHA, should a municipality determine its Fair Share Obligation by January 31, 2025, the municipality's determination shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, unless challenged by an interested party on or before February 28, 2025; 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 the Borough of Buena's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of three (3) units and a Prospective Need or New Construction Obligation of nine (9) units/credits; 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 "[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 biding 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, based on the foregoing, the Borough of Buena accepts the DCA calculations of Buena Borough's fair share obligations and commits to its fair share of three (3) units present need and nine (9) units/credits of 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, pursuant to the Amended FHA, any challenge to a municipality's determination must be initiated through the Affordable Housing Alternative Dispute Resolution Program (the "**Program**") by February 28, 2025, shall explain with particularity how the municipality's calculation fails to comply with N.J.S.A. 52:27D-304.2 and 52:27D-304.3, and include the challenger's own calculation of the fair share obligations in compliance with said sections; and

WHEREAS, pursuant to the Amended FHA, the Program shall resolve all challenges to a municipality's determination of its Fourth Round obligation by March 31, 2025, during which time the municipality shall retain its immunity from exclusionary zoning lawsuits; and

WHEREAS, Buena Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Buena Borough 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 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, Buena Borough 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 light of the above, the Borough Council of the Borough of Buena finds that it is in the best interest of the Borough 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 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, Buena Borough seeks a certification of compliance with the FHA and, therefore, directs Richard P. Tonetta, Esq., Borough Solicitor, to file a declaratory relief action within 48 hours of the adoption of this resolution in Atlantic County.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Borough Council of the Borough of Buena as follows:

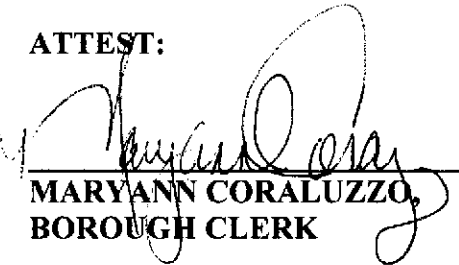
1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Buena Borough hereby commits to the DCA Round 4 Present Need Obligation of three (3) units and the Round 4 Prospective Need Obligation of nine (9) units/credits described in this resolution, subject to all reservations of rights set forth above.
3. Buena Borough hereby directs its Borough Solicitor, to file a declaratory judgment complaint in Atlantic County within 48 hours after adoption this resolution, attaching this resolution.
4. The Borough Council hereby directs the Municipal Clerk to publish this resolution on the municipal website within 48 hours after adoption of this resolution.
5. Buena Borough authorizes its Borough Solicitor, 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.
6. This resolution shall take effect immediately, according to law.

ADOPTED at a meeting of the Borough Council of Buena Borough, County of Atlantic, State of New Jersey held on January 27, 2025.



DOUGLAS ADAMS,
PRESIDENT OF COUNCIL

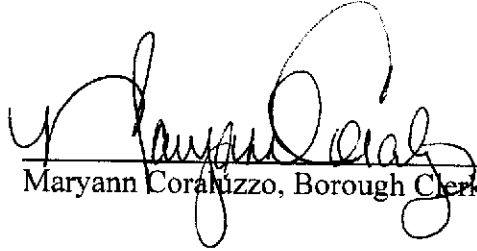
ATTEST:



MARYANN CORALUZZO,
BOROUGH CLERK

CERTIFICATION

I, Maryann Coraluzzo, Clerk of the Borough of Buena, County of Atlantic, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Borough Council of the Borough of Buena, at a meeting held on January 27, 2025.


Maryann Coraluzzo, Borough Clerk