

Resolution of the Demarest Governing Body

Resolution No. 081 -25

April 7, 2025

Council Member	Motion	Second	Yes	No	Abstain	Absent
Jiang			✓			
Fox			✓			
Marks			✓			
Slowikowski	✓		✓			
Reiss			✓			
Collins		✓	✓			

TITLE: RESOLUTION OF THE BOROUGH OF DEMAREST, BERGEN COUNTY, APPROVING A MEDIATION AGREEMENT BETWEEN FAIR SHARE HOUSING CENTER REGARDING THE BOROUGH’S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed P.L.2024, c.2 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 New Jersey Department of Community Affairs (hereinafter “DCA”) to calculate non-binding estimates of fair share obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) and calculated the Borough of Demarest, Bergen County’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 106; 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, Borough employees and professionals 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, the Borough believes that a recalculation of the Land Capacity Factor was necessary in order to account for land use data errors in the DCA’s calculation that identified five (5) developable areas within the Borough when only one (1) areas are developable; and

WHEREAS, based on the identified error, the Borough of Demarest recalculated its fair share obligation to a Prospective Need or New Construction Obligation of 94 units; and

WHEREAS, pursuant to the Administrative Office of the Court Directive #14-24, the Borough of Demarest adopted Resolution No. 035-25 on January 27, 2025, and subsequently filed a declaratory judgment complaint on January 29, 2025, under docket number BER-L-738-25, committing to a Fourth Round Present Need Obligation of 0 units and a Prospective Need Obligation of 94 units; and

WHEREAS, the Borough of Demarest's declaratory judgment complaint was challenged by the New Jersey Builders Association, claiming the DCA's calculated Prospective Need of 106 units; and

WHEREAS, pursuant to Directive #14-24, a mediation session was held on March 26, 2025, whereby a settlement was reached which, if approved by the governing body, sets the Borough's Prospective Need Obligation at 100 units; and

WHEREAS, the Borough's Affordable Housing Attorney and Planner find that it is in the best interest of the Borough to authorize the proposed settlement.

NOW, THEREFORE, THE FOLLOWING SHALL BE RESOLVED, by the Council of the Borough of Demarest, Bergen County, New Jersey on this 7th day of April 2025:

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 Demarest hereby approves the mediated settlement of its Fourth Round obligation, and a Prospective Need Obligation of 100 units.
3. The Borough of Demarest hereby directs its Affordable Housing Counsel to take all actions necessary to effectuate the settlement.
5. This resolution shall take effect immediately, according to law.

APPROVED:



Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on April 7, 2025



Julie Falkenstern, Acting Borough Clerk