

R25-24

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY RESOLUTION SUPPORTING THE AMENDMENT OF THE FAIR HOUSING ACT (FHA) AS PROPOSED BY THE NEW JERSEY INSTITUTE OF LOCAL GOVERNMENT ATTORNEYS (NJILGA)

WHEREAS, the current standards embodied in the New Jersey Fair Housing Act (“FHA”) impose unrealistic burdens on municipalities as demonstrated by the fact that the FHA calls for the imposition of a statewide affordable housing obligation of 84,698 just for Round 4 on municipalities that issued only 99,956 Certificates of Occupancy for all housing units in the 2010-2020 period that was used to establish prospective need obligations for Round 4; and

WHEREAS, the imposition of unrealistic obligations does not advance the realistic opportunity for the construction of more affordable housing, but instead encourages opposition and litigation; and

WHEREAS, the imposition of excessive obligations disincentivizes municipalities to comply voluntarily with the Mount Laurel doctrine – an overarching goal of all three branches of government. Unrealistic housing obligations force municipalities to overdevelop with inclusionary housing, thereby causing resistance to affordable housing.

WHEREAS, compliance with the obligation proposed by the Department of Community Affairs places the cost of the obligation on the shoulders of municipal taxpayers to implement measures to address the secondary impacts of overdevelopment; and

WHEREAS, even-handed justice requires that the obligations imposed by our laws must be realistic in order to justify imposing an obligation of constitutional dimension on municipalities to create a realistic opportunity for affordable housing; and

WHEREAS, the unrealistic obligations imposed by the current laws can be easily addressed by redefining the manner in which the regional need is calculated to be faithful to a principle embodied in the FHA despite its many changes over almost forty years; and

WHEREAS, more specifically, the FHA has consistently defined the prospective need to include “a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities” N.J.S.A. 52:27D-304 (j); and

WHEREAS, a determination of the number of new residential housing units, adjusted to remove tear down/rebuilds, represents a far more solid foundation to project “development and growth which is reasonably likely to occur” than the FHA’s current formula, which is based on “household change,” a nebulous and undefined term; and

WHEREAS, establishing prospective need for affordable units based on 20 percent of residential housing units actually constructed over a prior ten-year period accords with New Jersey’s long-standing policies of empowering municipalities to cure the abuse of exclusionary zoning with traditional inclusionary zoning; and

WHEREAS, the demand for market-rate housing is a reasonable basis for determining whether and to what extent a realistic opportunity for the creation of affordable housing may exist, and the issuance of certificates of occupancy for new residential units is a reliable indicator of such demand; and

WHEREAS, a standard aimed at ensuring that the number of affordable housing units in our state will increase commensurately with the number of market units constructed will put the doctrine on a sustainable trajectory that will avoid the tendency of municipalities to oppose implementation of affordable housing obligations; and

WHEREAS, the New Jersey Institute of Local Government Attorneys ("NJILGA") has expressed its support for an amendment to the FHA by which "development and growth which is reasonably likely to occur" would be based upon the net number of new housing units constructed over each ten-year period for which the state's affordable housing rounds are established; and

WHEREAS, for the above reasons, the [type of governing body] of [name of municipality] has determined that its prospective need, and the prospective need for all New Jersey municipalities for the fourth round and all future rounds of affordable housing obligations, should be calculated using NJILGA's proposed net housing unit based on certificates of occupancy as a methodology rather than the current FHA methodology based on "household change;"

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Merchantville, that the New Jersey Legislature is hereby requested to enact the amendment to the Fair Housing Act that has been recommended by the New Jersey Institute of Local Government Attorneys; and

AND BE IT FURTHER RESOLVED, that the Borough Clerk of the Borough of Merchantville is also hereby directed to send a copy of this signed, dated Resolution within five (5) days after its adoption, by mail and email to the following additional listed persons and entities:

The Honorable Philip D. Murphy, Governor
The Honorable Nilsa Cruz-Perez, Senator, 5th District
The Honorable William F. Moen, Jr., Assemblyman, 5th District
The Honorable William W. Spearman, Assemblyman, 5th District

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N.J. Institute of Local Government Attorneys
Attention: J. Peter Jost, Esq., Executive Director

THE BOROUGH OF MERCHANTVILLE

BY: _____
EDWARD F. BRENNAN, MAYOR

ATTEST:

DENISE BROUSE, BOROUGH CLERK

I, **DENISE BROUSE**, Borough Clerk of the Borough of Merchantville, do hereby certify the foregoing to be a true and correct copy of the Resolution adopted by Borough Council at a meeting of said Borough Council on January 27, 2025, and that said Resolution passed by a majority vote of the members of Borough Council.

DENISE BROUSE, BOROUGH CLERK