

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY**

RESOLUTION 2024-40

**RESOLUTION SUPPORTING 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 overwhelming burdens on municipalities as demonstrated by the fact that the Act calls for the imposition of a statewide affordable housing obligation of 84,690 just for Round 4 on municipalities that only issued 99,956 Certificates of Occupancy in the 2010-2020 period used to establish prospective need obligations for Round 4; and

WHEREAS, the imposition of excessive obligations does not create the realistic opportunity for the construction of more housing; and

WHEREAS, the imposition of excessive obligations disincentivizes municipalities to voluntarily comply – an overarching goal of all three branches of government; forces municipalities to overdevelop, thereby turning our Garden State into the garden apartment state; and spikes the obligations on taxpayers as municipal governments are left no choice but to commit to expensive compliance techniques in order to try to ameliorate the concerns of their communities with 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 overwhelming impact of our current laws can be easily addressed merely 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 40 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, the determination of the number of new 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 any other standard; and

WHEREAS, traditional 20 percent inclusionary zoning – the counterpart to exclusionary zoning-will only create a realistic opportunity for affordable housing if there is a sufficient market for the four market units needed to subsidize the fifth affordable unit; and

WHEREAS, the demand for market housing is essential to determining the creation of a realistic opportunity for affordable housing; and

WHEREAS a system that requires the construction of affordable housing in tandem with market housing ensures that as this state grows, it will grow with affordable housing without spawning the overdevelopment and spike in taxes that has led to an exodus of citizens leaving our state; and

WHEREAS, a standard that ensures that as our state grows it grows with a commensurate number of affordable housing units will put the doctrine on a trajectory that will avoid the doctrine from crumbling under its own weight by forcing municipalities to try to address overwhelming obligations; and

WHEREAS, fortunately, the New Jersey Institute of Local Government Attorneys has expressed its support for Legislation that defines the prospective need based upon “development and growth which is *reasonably likely to occur*”; and

WHEREAS, the redefinition of the affordable housing obligations of municipalities is not remarkable, but is rather a step in the continuous evolution of the doctrine since its inception in Mount Laurel I after which the obligation has been redefined multiple times; and

WHEREAS, our Supreme Court has emphasized that the issue of affordable housing is best left for the Legislature in that courts are ill equipped to deal with these issues and hence pledge to show great deference to the pronouncements of the Legislature; and

WHEREAS, this pledge for deference bodes well for any redefinition of the obligation-particularly one rooted in reality and designed to ensure that as municipalities grow with market housing, they grow with affordable housing; and

WHEREAS, for the above reasons, the Township Committee of the Township of Lafayette has determined that Lafayette Township’s 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 CO-based methodology rather than the current FHA methodology based on “household change,” and that NJILGA’s proposed FHA amendment should be enacted by the New Jersey legislature as soon as possible.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lafayette, Sussex County, New Jersey, 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 is attached hereto; and

AND BE IT FURTHER RESOLVED that the Municipal Clerk of Lafayette Township 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: Governor Phil Murphy, State House, P.O. Box 001, Trenton, NJ 08625; Senator Parker Space, One Wilson Drive, Suite 2B, Sparta, NJ 07871; Assemblywoman Dawn Fantasia, One Wilson Drive, Suite 2B, Sparta, NJ 07871; Assemblyman Michael Inganamort, One Wilson Drive, Suite 2B, Sparta, NJ 07871.

The undersigned Mayor of Lafayette Township hereby certifies the above as a true copy of a resolution adopted by the Township Committee of the Township of Lafayette on December 17, 2024.

Attest:

AnnaRose Fedish, Municipal Clerk

Alan Henderson, Mayor