

**RESOLUTION COMMITTING TO DCA'S FOURTH ROUND
AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED
NUMBERS**

RESOLUTION # 01.02.2025

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, 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 Kinnelon's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 22 and a Prospective Need or New Construction Obligation of 102; 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 binding 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, Kinnelon accepts the DCA calculations of Kinnelon's fair share obligations and commits to its fair share of 22 units present need and 102 units 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, Kinnelon reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Kinnelon 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, Kinnelon 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 Mayor and Council of Kinnelon finds that it is in the best interest of Kinnelon 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, Kinnelon seeks a certification of compliance with the FHA and, therefore, directs its Borough Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Morris County.

NOW, THEREFORE, BE IT RESOLVED on this 16 day of January, 2025 by the Mayor and Council of Kinnelon as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Kinnelon hereby commits to the DCA Round 4 Present Need Obligation of 22 units and the Round 4 Prospective Need Obligation of 102 units described in this resolution, subject to all reservations of rights set forth above.
3. Kinnelon hereby directs its Borough Attorney to file a declaratory judgment complaint in Morris County within 48 hours after adoption this resolution, attaching this resolution.
4. Kinnelon authorizes Borough Attorney 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.
5. This resolution shall take effect immediately, according to law.

CERTIFICATION

I, Karen Iuele, Clerk of Kinnelon, County of Morris, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by Mayor and Council at a meeting held on January 16, 2025.

A handwritten signature in black ink, appearing to read "K. Iuele", is written over a horizontal line.

Karen Iuele, Clerk