

RESOLUTION 2025-40

RESOLUTION ADOPTING THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS' CALCULATION OF LAKE COMO'S FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of Lake Como, County of Monmouth (the "**Borough**") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c. 2 (the "**Act**"), which established a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's *Mount Laurel* doctrine and the State of New Jersey's Fair Housing Act; and

WHEREAS, *N.J.S.A. 52:27D-304.1(c)* of the Act provides that prior to the beginning of each new 10-year round of affordable housing obligations beginning with the Fourth Round on July 1, 2025, the State of New Jersey's Department of Community Affairs (the "**DCA**") is tasked with determining municipal present and prospective need in accordance with the formulas established at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3*; and

WHEREAS, *N.J.S.A. 52:27D-304.1(d)* further provides that the DCA is required to prepare and submit a report to the Governor and Legislature on the calculations of such municipal obligations by October 20, 2024; and

WHEREAS, in accordance with the requirements of the Act, on October 18, 2024, the DCA provided a report setting forth its non-binding calculations of municipalities' present and prospective need for affordable housing for the Fourth Round using the formulas set forth at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3* (the "**Report**"); and

WHEREAS, the Report determined the Borough's present need obligation to be 11 units and its prospective need obligation to be 19 units; and

WHEREAS, *N.J.S.A. 52:27D-304.1(f)* provides that the Borough is required to determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3* and adopt a housing element and fair share plan based on this determination (as may be adjusted by the Affordable Housing Dispute Resolution Program (the "**Program**") in accordance with the Act); and

WHEREAS, for the Fourth Round of affordable housing obligations, this determination of present and prospective fair share obligation is required to be made by binding resolution no later than January 31, 2025; and

WHEREAS, the Borough has determined that its present and prospective need obligations of 11 units and 19 units, respectively, as calculated in the Report are accurate and wishes to adopt these calculations as the determination of its Fourth Round affordable housing obligation; and

WHEREAS, the Borough specifically reserves the right to adjust the Fourth Round Obligation calculated by DCA based the following adjustments or others identified during the process of promulgating a Fourth Round Housing Element and Fair Share Plan ("**4th Round**

HEFSP): 1) a “windshield survey” or similar survey which accounts for a lower estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water or both); 4) an adjustment to the Land Capacity Factor; and/or 5) an adjustment predicated upon regional planning entity formulas, inputs, or considerations, including, but not limited to the County and State Regional Master Plan; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights and positions, without prejudice, to revoke this resolution and commitment in the event of a successful challenge to the Act in the context of Borough of Montvale, et al. v. State of New Jersey, Docket No. MER-L-1778-24 or any other such action challenging the Act or calculations of Fourth Round Present or Prospective Obligations, or any legislation adopted and signed into law by the Governor of New Jersey altering the deadlines and/or requirements of the Act; and

WHEREAS, in addition to the foregoing, nothing in the Act requires or can require an increase in the Borough’s Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Act is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, pursuant to the Administrative Directive #14-24, dated December 13, 2024 (the “**Directive**”), implementing the Affordable Housing Dispute Resolution Program (the “**Program**”), a municipality seeking certification with the Act, shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located; and

WHEREAS, the Borough authorizes the filing of a declaratory judgment action pursuant to the Directive within forty-eight hours after the adoption of this resolution to seek compliance with the Act; and

WHEREAS, the Borough further authorizes its professionals to prepare the 4th Round HEFSP and present the same for adoption prior to June 30, 2025; and

WHEREAS, in light of the above, the Borough finds it is in the best interest of the Borough to declare its Fourth Round Present and Prospective Need Obligations, authorize the filing of a declaratory judgment action pursuant to the Directive, and direct its professionals to prepare a 4th Round HEFSP, all in accordance with the Act.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Council of the Borough of Lake Como, County of Monmouth, State of New Jersey as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Borough has determined that its present and prospective need obligations of 11 units and 19 units, respectively, as calculated in the Report are accurate and adopts these calculations as the determination of its Fourth Round affordable housing obligation, subject to all reservations of rights, including but not limited to:
 - A. The right to adjust the number based on one or any of the following: a windshield survey, vacant land assessment, durational adjustments, variations in the Land

Capacity Factor, and/or regional planning inputs; and

- B. The right to revoke this resolution in the event of a successful legal challenge to A4 or the Act, any legislative changes to the Act and signed into law by the Governor, or to the calculations of Fourth Round Present or Prospective Obligations.

3. The Borough authorizes its professionals to file a declaratory judgment action with the Program no later than 48 hours following adoption of this Resolution, in accordance with the requirements of the Act. A certified copy of this Resolution shall be included with such filing.

4. The Borough further authorizes its professionals to prepare the 4th Round HEFSP and present the same for adoption prior to June 30, 2025.

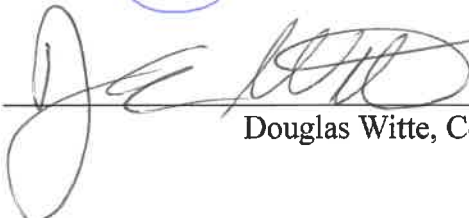
5. A copy of this Resolution shall be posted on the Borough's website.

6. This Resolution will take effect immediately.

Dated: January 21, 2025




Kevin G. Higgins, Mayor



Douglas Witte, Council President

CERTIFICATION

I hereby certify the foregoing Resolution to be a true and exact copy of a Resolution adopted by the Borough of Lake Como Council at its meeting held on January 21, 2025.



Amy Boney, RMC
Borough Clerk