

**TOWNSHIP OF FRANKFORD  
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

**RESOLUTION 2024-080**

**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 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 Township of Frankford 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 Township Committee of the Township of Frankford, in the County of Sussex, and State of 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

**AND BE IT FURTHER RESOLVED**, that the Municipal Clerk of the Township of Frankford 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:

New Jersey Institute for Local Government Attorneys  
P.O. Box 5389  
Clinton, New Jersey 08809  
Attention: J. Peter Jost, Esq.  
Executive Director  
[jpeter@jpllegal.com](mailto:jpeter@jpllegal.com)

Honorable Parker Space, Senator  
24<sup>th</sup> Legislative District  
One Wilson Drive  
Suite 2B  
Sparta, NJ 07871  
[SenSpace@njleg.org](mailto:SenSpace@njleg.org)

Honorable Dawn Fantasia, Assemblywoman  
24<sup>th</sup> Legislative District  
One Wilson Drive  
Suite 2B  
Sparta, NJ 07871  
[AswFantasia@njleg.org](mailto:AswFantasia@njleg.org)

Honorable Michael Inganamort, Assemblyman  
24<sup>th</sup> Legislative District  
One Wilson Drive  
Suite 2B  
Sparta, NJ 07871  
[asminganamort@njleg.org](mailto:asminganamort@njleg.org)

The undersigned Township of Frankford hereby certifies the above as a true copy of a resolution adopted by the Township Committee of the Township of Frankford on December 10, 2024.

*Attest:*

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Lori Nienstedt, MBA, RMC  
Municipal Clerk