

**BOROUGH OF HAWORTH  
BERGEN COUNTY  
RESOLUTION 2025-073**

**RESOLUTION OF THE BOROUGH OF HAWORTH, COUNTY OF  
BERGEN, STATE OF NEW JERSEY COMMITTING TO ROUND 4  
PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING  
OBLIGATIONS**

**WHEREAS**, the Borough of Haworth, County of Bergen, State of New Jersey, (hereinafter, “Haworth”) has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

**WHEREAS**, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter “Amended FHA” or “Act”); and

**WHEREAS**, the Amended FHA requires the Department of Community Affairs (“DCA”) to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria on the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act; and

**WHEREAS**, the DCA Report calculates Haworth’s Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 0 and a Prospective Need (New Construction) Obligation of 221; and

**WHEREAS**, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

**WHEREAS**, the Amended FHA gives municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; 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 the Council on Affordable Housing (“COAH”) unless those regulations are contradicted by statute, including the Act, or binding court decisions” (N.J.S.A 52:27D-311 (m)); and

**WHEREAS**, COAH regulations empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

**WHEREAS**, Haworth has accepted the Present Need (Rehabilitation) Obligation of 0 as reported by the DCA in its October 18, 2024 Report; and

**WHEREAS**, Haworth has exercised its right to demonstrate that the data, when correctly applied, supports a lower Round 4 Prospective Need obligation than that reported by the DCA on October 18, 2024; and

**WHEREAS**, more specifically, Haworth maintains that its Round 4 prospective need number is 142 based upon its examination of the data used to calculate each of the three (3) allocation factors and subject to there being sufficient vacant, approvable, available, developable and suitable land to accommodate the construction of said units in compliance with all applicable federal, state and local regulations; and

**WHEREAS**, as to the **Equalized Nonresidential Allocation Factor**, Haworth has examined the data the DCA used to establish this factor and concluded that DCA has accurately calculated this Factor; and

**WHEREAS**, as to the **Income Capacity Allocation Factor**, Haworth has examined the data the DCA used to establish this factor and concluded that DCA has accurately calculated this Factor; and

**WHEREAS**, as to the **Land Capacity Allocation Factor**, Haworth notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 27, 2024 instead of by October 20, 2024; and

**WHEREAS**, Haworth further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. **It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.**" (emphasis added); and

**WHEREAS**, Haworth maintains that the areas the DCA identified as developable are indeed overinclusive and, consequently, its Professional Planner has prepared a report, attached hereto as Exhibit A, showing the lands that Haworth contends should be removed from the inventory of sites used to fashion the **Land Capacity Allocation Factor**; and

**WHEREAS**, it is therefore important that Haworth not commit to an incorrect obligation; and

**WHEREAS**, correcting the allocation factors results in Haworth's Round 4 Prospective Need Obligation being 142 rather than the obligation established by DCA, subject to there being

sufficient vacant, approvable, available, developable and suitable land to accommodate the construction of said units in compliance with all applicable federal, state and local regulations; and

**WHEREAS**, the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Act; and

**WHEREAS**, Haworth’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Act; and

**WHEREAS**, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

**WHEREAS**, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

**WHEREAS** the court approved a vacant land adjustment ((hereinafter, “VLA”) and a realistic development potential (hereinafter, “RDP”) for Haworth in Round 3; and

**WHEREAS**, because there has been no material change in vacant land in Haworth since the approval of its VLA and RDP, and because Haworth provided a realistic opportunity for the satisfaction of its RDP approved by the Court in Round 3, Haworth is entitled to a vacant land adjustment, in Round 4 and a minimal RDP in Round 4 that will be fully addressed and included in the HEFSP it submits by the June 30, 2025 deadline; and

**WHEREAS**, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

**WHEREAS**, in light of the above, Haworth finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act; and

**WHEREAS**, in addition to the above, the 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 compliance certification with the Act shall file an action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, Haworth seeks compliance certification with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** on this 28th day of January, 2025 by the Governing Body of the Borough of Haworth, County of Bergen, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.

2. For the reasons set forth in this resolution and its attachments, Haworth commits to a Round 4 Present Need (Rehabilitation) Obligation of 0 and a Round 4 Prospective Need (New Construction) obligation of 142, as set forth in the Exhibit(s) to this Resolution, subject to all reservations of all rights, which specifically include, without limitation, the following:

a) The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with the Act and COAH regulations;

b) The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations;

c) The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;

d) The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or other litigation; and

e) The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and Haworth's response thereto.

3. Haworth hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the appropriate venue within 48 hours after adoption of this resolution attaching this resolution.

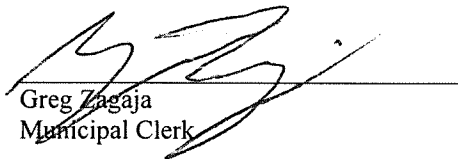
4. Haworth hereby authorizes its Affordable Housing Counsel to file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. This resolution shall take effect immediately, according to law.

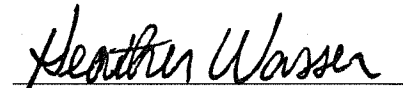
Councilperson	Moved	Seconded	Aye	Nay	Abstain	Absent
Poosikian	X		X			
Rosenberg						X
Siciliano		X	X			
Davis			X			
Di Iorgi			X			
Laub			X			

This resolution shall take effect immediately upon its adoption by the Mayor and Council and shall be enforced in accordance with all applicable laws and regulations.

I hereby certify that the above resolution is a true copy of a resolution adopted by the Mayor and Council on January 28, 2025.

  
 Greg Zagaja  
 Municipal Clerk

APPROVED:

  
 Heather Wasser  
 Mayor





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*Via email*

## MEMORANDUM

**To:** Edward Buzak, Borough of Haworth Affordable Housing Attorney  
**From:** Caroline Z. Reiter, P.P., A.I.C.P., Borough of Haworth Affordable Housing Planner  
**Date:** January 28, 2025  
**Re:** Round 4 Affordable Housing Obligation

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As requested, we are providing additional information on the Borough of Haworth's Round 4 affordable housing obligation. New Jersey's Department of Community Affairs (DCA) calculated a Round 4 Prospective Need obligation of 242 units for the Borough. DCA reduced Haworth's Prospective Need obligation to **221 units** pursuant to the New Jersey Fair Housing Act because the original 242-unit obligation exceeded 20% of the total number of households in the Borough.

### Regional Obligation and Allocation Factors

New Jersey affordable housing obligations are calculated on a regional level and then filtered down to the municipal level. There are six affordable housing regions in the state; the regions each include three or four counties. Region 1, in which Haworth is located, includes Bergen, Hudson, Passaic and Sussex counties.

The calculated affordable housing obligation, which is referred to as the prospective need obligation, for Region 1 is **27,743 units**. The New Jersey Fair Housing Act (FHA) Amendment that was the subject of the March 2025 affordable housing legislation known as P.L. 2024, c.2, details how the Department of Community Affairs (DCA) should calculate the regional obligation, and how that number is filtered into individual municipal affordable housing obligations.

The Fair Housing Act directs the DCA to allocate the regional need to each municipality in the region through the three allocation factors: Equalized Nonresidential Valuation factor, Income Capacity factor, and Land Capacity factor. After calculating each allocation factor, they are then averaged, and that average is applied to the regional prospective need to calculate a municipality's affordable housing obligation.

DCA calculated the following allocation factors for Haworth:

- **Equalized Nonresidential Valuation factor of 0.20%;**
- **Income Capacity factor of 1.24%; and**
- **Land Capacity factor of 1.16%.**



The above three factors are then averaged to an Average Allocation factor of 0.87%, which, when applied to Region 1's total prospective need of 27,743 units, results in DCA's calculated affordable housing for Haworth of 242 units. Finally, DCA applied the 20% cap and reduced the prospective need to 221 units.

A brief description of each of the three factors, and their applicability to Haworth, follows.

Equalized Nonresidential Valuation: This is the municipal share of regional nonresidential valuation change from 1999-2023, based on data published by DCA's Division of Local Government Services. Haworth's Tax Assessor has confirmed the data that DCA used to calculate Haworth's Equalized Nonresidential Valuation factor of 0.20%.

Income Capacity: This is census data. We have confirmed that the data used to calculate Haworth's Income Capacity of 1.24% is correct.

Land Capacity Factor: This is developable land, primarily taken from NDJEP mapping. DCA identifies approximately 23.061 acres of land that results in Haworth's Land Capacity of 1.16%.

The DCA identified about 23.061 acres of Land Capacity in Haworth. T&M, along with Borough representatives and the Affordable Housing Attorney, reviewed this acreage and determined that 27 of the properties included in the Land Capacity did not represent a realistic potential for future development. Of the 27 lots, 26 were removed from the inventory in their entirety, and a portion of the 27<sup>th</sup> lot was removed from the inventory. Removal of the 27 lots (or portion of a lot) results in the removal of approximately 21.393 acres from the Borough's Land Capacity inventory and reduces Haworth's Land Capacity to about 1.668 acres. Reduction of the Land Capacity to 1.668 acres reduces the Land Capacity Factor to 0.09%, thereby resulting in the following allocation factors for Haworth:

- **Equalized Nonresidential Valuation factor of 0.20%;**
- **Income Capacity factor of 1.24%; and**
- **Land Capacity factor of 0.09%**

The above three factors are then averaged to an Average Allocation factor of approximately 0.51%, which, when applied to Region 1's total prospective need of 27,743 units, results in a calculated Prospective Need housing for Haworth of 142 units.

Of the properties that were removed from the Land Capacity inventory, some were unusually shaped or too small to develop, and others were parks or open space. The removed lots are as follows:





- Block 1006, Lot 6.01, which is a House of Worship;
- Block 1007, Lot 1, which is approximately 18 ft. in width and is a railroad buffer;
- Block 1201, Lot 1, which is an open space/recreation area;
- Block 1201, Lot 6, which is an open space/recreation area and is included in the 2024 ROSI;
- Block 1201, Lot 7, which is a 50 ft. wide drainage area;
- Block 1401, Lot 1, which is an unusually shaped lot located along the railroad, and has a width of 14.9 ft. at the northern end.
- Block 1401, Lot 2, which is an open space/recreation area and is included in the 2024 ROSI;
- Block 1403, Lot 14, which contains wetlands and a riparian buffer and is included in the 2024 ROSI;
- Block 1403, Lot 15, which contains wetlands and a riparian buffer and is included in the 2024 ROSI;
- Block 1512, Lot 1, which is an open space/recreation area;
- Block 1602, Lot 2, which is an open space/recreation area and is included in the 2024 ROSI;
- Block 1702, Lot 13, which is included in the 2024 ROSI;
- Block 1703, Lot 3, which is included in the 2024 ROSI;
- A portion of Block 1800, Lot 1 due to it being a Round 3 affordable housing mechanism;
- Another portion of Block 1800, Lot 1, which is included in the 2024 ROSI;
- Block 1801, Lot 1, which is less than 30 ft. in width and undevelopable due to narrow configuration and lack of access to an improved right-of-way;
- Block 1802, Lot 1, which is less than 30 ft. in width and undevelopable due to narrow configuration and lack of access to an improved right-of-way;
- Block 1803, Lot 1, which is less than 30 ft. in width and undevelopable due to narrow configuration and lack of access to an improved right-of-way;
- Block 1804, Lot 1, which is 20 ft. in width and contains approximately 1,874 square feet of Land Capacity. Per the DCA Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, areas less than 2,500 square feet were removed from the analysis. Therefore, Lot 1 should not be included in the Land Capacity;
- Block 1804, Lot 2, which is 10 ft. at its widest point and contains approximately 81 square feet of Land Capacity. Per the DCA Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, areas less than 2,500 square feet were removed from the analysis. Therefore, Lot 2 should not be included in the Land Capacity;
- Block 1805, Lot 1, which is less than 20 ft. in width and undevelopable due to narrow configuration and lack of access to an improved right-of-way;
- Block 1805, Lot 2, which is on the 2024 ROSI;
- Block 1805, Lot 6, which is on the 2024 ROSI;



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- Block 1806, Lot 1, which is 20 ft. in width and contains approximately 2,287 square feet of Land Capacity. Per the DCA Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, areas less than 2,500 square feet were removed from the analysis. Therefore, Lot 1 should not be included in the Land Capacity;
- Block 1806, Lot 3, which is on the 2024 ROSI;
- Block 1806, Lot 5, which is on the 2024 ROSI;
- Block 1806, Lot 7, which is on the 2024 ROSI;
- Block 1806, Lot 10, which is an open space/recreation area and included in the 2024 ROSI.

### **Adoption of Binding Resolution**

Haworth's Mayor and Council is tasked with adopting a binding resolution stipulating the Borough's affordable housing obligation. The FHA requires that this resolution be adopted no later than January 31, 2025. Failure to adopt the resolution can result in the Borough losing immunity from exclusionary zoning litigation, i.e. builders' remedy lawsuits.

The Borough can either accept DCA's calculated obligation of 221 units or use the alternate obligation of 142 units in its binding resolution.

Finally, Haworth will most likely utilize a Vacant Land Adjustment (VLA) to address its affordable housing obligation. This process involves a review of vacant land to calculate a Realistic Development Potential (RDP) and resulting Unmet Need.

### **Next Steps**

Once the Borough has adopted a binding resolution stipulating its affordable housing obligation, the Affordable Housing Attorney will file the resolution with the Program and file an Action of Declaratory Judgment (DJ Action). Under the FHA Amendment, there is a "challenge" available. Interested parties can challenge a municipality's Round 4 affordable obligation through February 28, 2025.

We will then begin to prepare the Borough's Housing Element and Fair Share Plan, which the Planning Board must adopt at a public hearing with required notice no later than June 30, 2025. This process will include calculation of a Vacant Land Adjustment, with an associated Realistic Development Potential (RDP) and Unmet Need. The Housing Element and Fair Share Plan will also list the Borough's completed, planned and proposed affordable housing mechanisms to meet Haworth's Prior Round, Round 3, and Round 4 affordable housing obligations.

Please let us know if there are further questions on Haworth's Round 4 affordable housing obligation and the required timeline.