

**PREPARED BY THE COURT:**

**IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF THE TOWNSHIP  
OF CHATHAM, MORRIS  
COUNTY PURSUANT TO P.L.  
2024, CHAPTER 2 (N.J.S.A.  
52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CIVIL PART  
MORRIS COUNTY  
DOCKET NO. MRS-L-000275-25

**FILED**

MAY 13 2025

Civil Action

Janine M. Allen, J.S.C.

Mt. Laurel Program

**DECISION AND ORDER FIXING  
MUNICIPAL OBLIGATIONS FOR  
“PRESENT NEED” AND “PROSPECTIVE  
NEED” FOR THE FOURTH ROUND  
HOUSING CYCLE**

**THIS MATTER**, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on January 30, 2025 (“DJ Complaint”) by the Petitioner, **TOWNSHIP OF CHATHAM** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the “Program”, seeking a certification of compliance with the FHA;

**AND IT APPEARING** that, the Municipality timely adopted Resolution 2025-062 on January 28, 2025, agreeing to DCA’s calculation of 30 affordable housing units of “present need” but seeking a downward deviation from “prospective need” calculations allocated to it by the New Jersey Department of Community Affairs (“DCA”) in its report dated October 18, 2024 entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)* (the “DCA’s Fourth Round Report”) – specifically, a “prospective need” obligation of 156 affordable housing units, which calculations have been deemed “presumptively valid” - and based on the Municipality planners’

recommendation for 141 units for a “prospective need” affordable housing obligation for the Fourth Round housing cycle based on their planner’s report asserting that DCA had included many acres of property in its land capacity analysis that should have been excluded from consideration;

**AND IT APPEARING** that, a challenge to the Municipality’s calculations (“Challenge”) was timely and properly filed by the New Jersey Builders Association (“NJBA” or “Challenger”), by and through its counsel, wherein the Challenger disputed the Municipality’s proposed obligation for prospective need and supported DCA’s prospective need obligations, with the Municipality’s position and the NJBA Challenge supported by their own expert reports;

**AND IT APPEARING** that, pursuant to the Program, the Administrative Office of the Courts (“AOC”) appointed and assigned the case to Program Member, the Hon. Stephan C. Hansbury, J.S.C. (Ret.) (“Program Member”) to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC’s Directive #14-24 (“Directive #14-24”), and that the Program Member appointed Joseph Burgis, PP, an independent affordable housing expert, as special adjudicator (“Special Adjudicator”) in this case to work with closely with the Program Member, make recommendations to, and assist the Program;

**AND IT APPEARING** that, on March 27, 2025 a settlement conference was conducted followed by a session on that same date, on notice to all parties with the participation of local officials, attorneys for the Municipality and NJBA, and the Special Adjudicator, with the session following the settlement conference when efforts at resolution through mediation failed;

**AND IT APPEARING** that, the Program Member heard argument at the session of March 27, 2025 from counsel for the Municipality and for the NJBA in support of their respective positions, and determined to reserve decision to allow for further consideration;

**AND IT APPEARING** that, after reviewing the arguments of all parties, the Program Member issued his written Report and Program Recommendation on April 3, 2025, wherein he found that the NJBA's challenge fails to state with particularity how the Municipal calculation fails to comply with Sections 6 and 7 of N.J.S.A. 52:27D-301, et al. and further failed to include the Challenger's own calculation of fair share obligations in compliance with Sections 6 and 7 of N.J.S.A. 52:27D-301, et al. and, consequently, recommended to the Court that the Municipality's calculation be endorsed and effectuated, thereby establishing the prospective need for Township of Chatham at 141 units, and for the reasons set forth in the Program Member's Statement of Reasons accompanying the Recommendation;

**AND THE COURT**, having received the Program Member's Recommendation dated April 3, 2025, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

**AND THE COURT**, having reviewed and considered the Program Member's Report and Recommendations, having been satisfied with the recommendation to fix the municipal present need obligation of the Township of Chatham for 30 affordable units for the Fourth Round housing cycle, and to accept a modification such that the prospective need obligation be fixed at 141 affordable units for the Fourth Round cycle in the place and stead of the DCA's calculated number of 156 units, without revoking immunity, and that an Order fixing those obligations at those numbers will be fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality, and for good and sufficient cause having otherwise been shown:

**IT IS, THEREFORE**, on and effective as of the 13th day of **May 2025 ADJUDGED AND ORDERED**, that the Program Member's Report and Recommendations, be, and the same

hereby **ACCEPTED** and **ADOPTED** in their entirety; and to that end, more specifically, it is further

**ORDERED**, as follows:

1. That the “present need” obligation of the Municipality, be, and hereby is fixed as **thirty (30)** affordable units for the Fourth Round housing cycle.

2. That the “prospective need” obligation of the Municipality, be, and hereby is fixed as **one hundred forty one (141)** affordable units for the Fourth Round housing cycle.

3. That the Petitioner is hereby authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, with immunity, and without further delay; and

4. That any and all “challenges” to the Petitioner’s Housing Element and Fair Share Plan as adopted by Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this matter, and as provided for and in accordance with Section III.B of AOC Directive #14-24.

**IT IS FURTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and Challenger NJBA's counsel upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:



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**HON. JANINE M. ALLEN, J.S.C.**

*Designated Mt. Laurel Judge – Morris/Sussex Vicinage*

(X) Challenged.

**Pursuant to R. 1:7-4(a), the Court's Statement of Reasons is attached hereto and made a part hereof.**

## **STATEMENT OF REASONS**

[R. 1:7-4(a)]

Having reviewed and considered the Program Recommendation prepared by the Affordable Housing Dispute Resolution Program in this matter and for the reasons that follow, the Court hereby adopts the Program Member's recommendation in full and thus fixes the "present need" obligation of 30 units and a "prospective need" obligation of 141 units for the Petitioner, Township of Chatham, for the Fourth Round housing cycle.

### **I. Discussion and Analysis.**

The Fair Housing Act, N.J.S.A. 52:27D-302 to 313.3 (the "Act"), mandates municipalities to determine their fair share of affordable housing obligations. The Act's Fourth Round covers the period from 2025 to 2035, with specific calculations conducted and completed by the New Jersey Department of Community Affairs (DCA) in accordance with the Act. Specifically, in October 2024, DCA published its Affordable Housing Obligations for the 2025-2035 (Fourth Round) Methodology and Background Report (DCA Report), which assigned numerical obligations to all non-exempt municipalities. Municipalities were then required to file binding resolutions establishing their fair share obligations by January 31, 2025, and could challenge these calculations by providing alternative ones in compliance with the Act. The Affordable Housing Dispute Resolution Program, established by the Legislature, provides a mechanism for resolving such disputes.

The case at hand involves the determination of affordable housing obligations for the Township of Chatham as part of the Fourth Round process established by the Legislature. More specifically at issue is Chatham's "prospective need" obligation for the Fourth Round.

“Prospective Need” represents the projection of housing needs for low and moderate-income households based on expected development and growth over the next decade. The Municipality contested DCA’s calculation of 156 affordable units, proposing a reduced number of 141 units, citing alleged lack of land capacity as the principal basis for its downward deviation and calculation, and which had the effect of reducing Chatham’s projected prospective need by 12 units.

Program Member Judge Hansbury found that the NJBA’s challenge lacked particular calculations as to why Chatham’s proposed recalculation was inadequate. In so doing, Program Member Judge Hansbury relied on the language in the Act which states at N.J.S.A. 52:27D-304.2 and 304.3 "any challenge must create with particularity how the municipal calculation fails to comply with section 6 and 7 of its provisions." He further found that the challenge must also include the challenger's own calculations of the Fair Share obligation in compliance with N.J.S.A. 52:27D-304.2 and 304.3. Here, NJBA filed a generic challenge to Chatham’s calculations without particularity and therefore Program Member Judge Hansbury recommends that the challenge be summarily dismissed.

The Court agrees.

Having reviewed the record, expert analyses presented, and arguments of counsel for the Petitioner and Challenger, the Court endorses Judge Hansbury’s recommendation.

## **II. Conclusion & Decision.**

For the foregoing reasons, the Court concurs in the Program Member’s findings, and will implement the Program Member’s recommendation to dismiss the NJBA’s challenge.

Accordingly, the Court hereby adopts the Report and Recommendations of the Program Member, in their entirety, and will enter an Order fixing a “present need” obligation of 30

affordable units, and a modified “prospective need” obligation of 141 affordable units for the Petitioner, Township of Chatham, for the Fourth Round housing cycle.

The Petitioner will be authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, with immunity, and without further delay.

An appropriate form of Order implementing the Court’s decision above accompanies this Statement of Reasons.

**SO ORDERED.**