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Attorneys for Petitioner,
City of Ocean City

<p>IN THE MATTER OF THE APPLICATION OF THE CITY OF OCEAN CITY, a municipal corporation of the State of New Jersey, Petitioner.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION CAPE MAY COUNTY Docket No. Civil Action COMPLAINT FOR DECLARATORY JUDGMENT</p>
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Petitioner, the City of Ocean City (hereinafter, "Ocean City"), a municipal corporation and body politic organized under the laws of the State of New Jersey, with offices located at 861 Asbury Avenue, Ocean City, Cape May County, New Jersey 08226, by way of Complaint for Declaratory Judgment says:

1. Jurisdiction is established pursuant to the New Jersey Declaratory Judgments Act, N.J.S.A. 2A:16-50, *et seq.*
2. Ocean City is a municipal corporation and body politic organized under the laws of the State of New Jersey.
3. City Council is the governing body of Ocean City and is responsible, *inter alia*, to ensure that Ocean City takes the actions necessary to achieve and maintain compliance with its obligations under the laws collectively known as the "Mount Laurel doctrine."

4. On July 7, 2015, Ocean City filed a Complaint for Declaratory Judgment seeking a Declaration of Compliance with the Mount Laurel Doctrine and Fair Share Housing Act of 1985 as permitted by the New Jersey Supreme Court.

5. On July 18, 2018, Ocean City entered into a settlement agreement with the Fair Share Housing Center (“FSHC”) which determined Ocean City's prior round, present, and Third Round obligation and set forth Ocean City's preliminary compliance plan.

6. On August 28, 2018, the Court entered an Order of Fairness deeming the July 18, 2018 Settlement Agreement between Ocean City and FSHC to be fair and reasonable under Mount Laurel IV.

7. On March 14, 2023, the Court entered an Amended Judgment of Compliance and Repose granting Ocean City affirmative immunity from exclusionary zoning litigation through July 1, 2025.

8. Through this action, the City seeks relief in relation to its Fourth Round (2025 – 2035) affordable housing obligation as set forth herein.

9. On March 20, 2024, New Jersey’s governor signed into law an amendment to the Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (the “Amended FHA”).

10. In accordance with the Amended FHA, on or about October 18, 2024 the Department of Community Affairs (“DCA”) issued its report calculating the Fourth-Round regional need and municipal obligations for each region of the State, including the City of Ocean City, based upon the DCA’s interpretation of the standards in the Amended FHA.

11. Through the adoption of N.J.S.A. 52:27D-313.2, the New Jersey legislature created the Affordable Housing Dispute Resolution Program to resolve disputes involving the Amended FHA.

12. On January 23, 2025, the governing body of the City of Ocean City adopted a binding resolution committing to the Fourth-Round present need and prospective need as calculated by the DCA (the “Resolution”). A copy of the Resolution is attached hereto as **Exhibit A**.

13. By timely adopting the Resolution and filing the within Complaint, Ocean City has demonstrated its entitlement to immunity from any future exclusionary zoning lawsuits for the period from 2025 to 2035 and remains presumptively immune from suit presently.

14. Ocean City intends to rely on a vacant land adjustment due to the lack of developable land within Ocean City.

15. Pursuant to the Declaratory Judgments Act, N.J.S.A. 2A:16-50 *et seq.*, Ocean City has a right to a declaratory judgment verifying and confirming its full compliance with its constitutional affordable housing obligations.

16. Ocean City commits to drafting and filing a Housing Element and Fair Share Plan demonstrating compliance with the Fourth Round Affordable Housing obligations. Further, Ocean City desires that the Court review and accept its Housing Element and Fair Share Plan and approve the Program’s issuance of a certificate of compliance.

WHEREFORE, Petitioner, the City of Ocean City, respectfully seeks that the Program and the Court grant the following relief:

- a. Declaring that Ocean City has properly filed a Resolution and the within Complaint and is therefore entitled to immunity from exclusionary zoning litigation for the period from July 1, 2025 to July 1, 2035; and
- b. Declaring that Ocean City has properly determined its present and prospective need for the period from July 1, 2025 to July 1, 2035 (Fourth Round); and

- c. Declaring that Ocean City's Housing Element and Fair Share Plan comply with the Fair Housing Act, and that Ocean City is therefore entitled to a certification of compliance from the Program; and
- d. Declaring that Ocean City has fully complied with its statutory obligations under the Fair Housing Act, and that it is therefore entitled to a certification of compliance from the Program for the period from July 1, 2025 to July 1, 2035.
- e. Granting such additional relief as the Program deems equitable and just.

Dated: January 24, 2025

McCrosson & Stanton, P.C.
Counsel for Petitioner
By: *Dorothy F. McCrosson*
Dorothy F. McCrosson, Esquire

DESIGNATION OF TRIAL COUNSEL

Pursuant to *Rule 4:25-4*, Dorothy F. McCrosson, Esquire is designated as trial counsel for the Petitioner, City of Ocean City, in the above matter.

Dated: January 24, 2025

McCrosson & Stanton, P.C.
Counsel for Petitioner
By: *Dorothy F. McCrosson*
Dorothy F. McCrosson, Esquire

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to *Rule 4:5-1*, I hereby certify that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration or administrative proceeding to the best of my knowledge or belief. Also, to the best of our belief, no other action, arbitration or administrative proceeding is contemplated. Further, other than the parties set forth in this pleading I know of no other parties who should be joined in the above action. In addition, I recognize the

continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: January 24, 2025

McCrosson & Stanton, P.C.
Counsel for Petitioner
By: *Dorothy F. McCrosson*
Dorothy F. McCrosson, Esquire

CERTIFICATION OF RULE 1:38-7(b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: January 24, 2025

McCrosson & Stanton, P.C.
Counsel for Petitioner
By: *Dorothy F. McCrosson*
Dorothy F. McCrosson, Esquire

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY

25-61-248

RESOLUTION

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

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 Ocean City's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 160 and a Prospective Need or New Construction Obligation of 68; 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 biding 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, the City of Ocean City (hereinafter, "Ocean City") accepts the DCA calculations of Ocean City's fair share obligations and commits to its fair share of 160 units present need and 68 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, Ocean City reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, Ocean City 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, Ocean City 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 City Council of Ocean City finds that it is in the best interest of Ocean City 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, Ocean City seeks a certification of compliance with the FHA and, therefore, directs its City Solicitor to file a declaratory relief action within 48 hours of the adoption of this resolution in Cape May County.

CITY OF OCEAN CITY
 CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED on this 23rd day of January, 2025 by the City Council of the City of Ocean City as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The City of Ocean City hereby commits to the DCA Round 4 Present Need Obligation of 160 units and the Round 4 Prospective Need Obligation of 68 units described in this resolution, subject to all reservations of rights set forth above.
3. The City of Ocean City hereby directs its City Solicitor to file a declaratory judgment complaint in Cape May County within 48 hours after adoption of this resolution, attaching this resolution.
4. The City of Ocean City authorizes its City Solicitor 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.



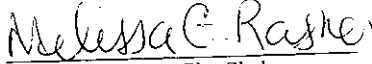
 Peter V. Madden, Council President

CERTIFICATION

I, Melissa Rasner, Clerk of the City of Ocean City, County of Cape May, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by The City Council of the City of Ocean City at a meeting held on January 23, 2025.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the City Council of the City of Ocean City, New Jersey at a Council Meeting held on Thursday, January 23, 2025, with the voting record as indicated below.

NAME	MOTION	SECOND	AYE	NAY	ABSENT	ABSTAINED
Barnes		✓	✓			
Crowley			✓			
Hartzell			✓			
Levchuk			✓			
Madden			✓			
Polcini			✓			
Winslow	✓					



 Melissa G. Rasner, City Clerk

Civil Case Information Statement

Case Details: CAPE MAY | Civil Part Docket# L-000035-25

Case Caption: IN THE MATTER OF OCEAN CITY

Case Initiation Date: 01/24/2025

Attorney Name: DOROTHY F MC CROSSON

Firm Name: MC CROSSON & STANTON PC

Address: 200 ASBURY AVE

OCEAN CITY NJ 08226

Phone: 6093992411

Name of Party: PETITIONER : City of Ocean City

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: AFFORDABLE HOUSING

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: City of Ocean City? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/24/2025

Dated

/s/ DOROTHY F MC CROSSON

Signed

