

## Civil Case Information Statement

### Case Details: HUNTERDON | Civil Part Docket# L-000070-25

**Case Caption:** IN THE MATTER OF FRANKLIN TWP

**Case Initiation Date:** 01/29/2025

**Attorney Name:** IGOR V BYKOV

**Firm Name:** LAVERY SELVAGGI & COHEN

**Address:** 1001 ROUTE 517

HACKETTSTOWN NJ 07840

**Phone:** 9088522600

**Name of Party:** PLAINTIFF : Tonwhsip of Franklin

**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:** Tonwhsip of Franklin? 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)*

01/29/2025

Dated

/s/ IGOR V BYKOV

Signed

Igor V. Bykov (376562022)  
Lavery, Selvaggi & Cohen  
A Professional Corporation  
1001 Route 517  
Hackettstown, NJ 07840  
(908) 852-2600  
*Attorneys for Declaratory Plaintiff,  
Township of Franklin*

IN THE MATTER OF THE APPLICATION OF  
THE TOWNSHIP OF FRANKLIN,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUNTERDON COUNTY  
DOCKET NO.

Civil Action

**COMPLAINT FOR DECLARATORY  
JUDGMENT PURSUANT TO DIRECTIVE  
#14-24**

Declaratory Plaintiff, the Township of Franklin, County of Hunterdon, State of New Jersey (hereinafter, "Franklin" or the "Township"), a municipal corporation of the State of New Jersey, with principal offices located at 202 Sidney Road, Pittstown, New Jersey 08867, by way of this Declaratory Judgment Action ("DJ Action") as authorized under Directive # 14-24 of the Administrative Office of the Courts alleges and says:

### COUNT I

1. Franklin Township is a municipal corporation of the State of New Jersey.
2. The Planning Board of the Township of Franklin (hereinafter, "Planning Board") is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., ("MLUL"), and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan ("HEFSP") of Franklin's Master Plan.

3. On March 20, 2024, Governor Philip D. Murphy signed into law P.L. 2024 c. 2, (C.52:27D-304.1 et al.), (hereinafter the “Act”), representing a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 *et seq.* (hereafter “FHA”).
4. Among other things, the Act abolished the Council on Affordable Housing (hereinafter “COAH”), and created a new process for municipalities to come into constitutional compliance with their affordable housing obligations.
5. The Act established the Affordable Housing Dispute Resolution Program (hereinafter the “Program”) within the judiciary for the purpose of resolving disputes associated with the Fair Housing Act.
6. Among other things, the Act authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, “Director” and “AOC”) to establish guidelines for the resolution of such aforesaid disputes and to create a framework to process municipal applications for compliance certification.
7. On or about December 13, 2024, the Director issued Directive # 14-24, which, among other things, required municipalities seeking compliance certification to file an action in the form of a declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution, as authorized under the Act and to attach a copy of said binding resolution to the DJ Action.
8. The Township adopted a binding resolution establishing its present and prospective affordable housing obligations on January 28, 2025, within the statutory window of time set forth in the Act, and in accordance with the methodology and formulas set forth in the

Act (hereafter “Township Resolution”). A certified copy of the resolution is attached to this DJ Action as **Exhibit A.**

9. Based on the foregoing, the Township has established the jurisdiction of the Program and the Court in regard to this DJ Action for a compliance certification as set forth hereinafter.
10. The Act adopted the methodology to calculate every municipality’s present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.
11. The Act directed the Department of Community Affairs (“DCA”) to apply the methodology set forth in the Act and to render a non-binding calculation of each municipality’s present and prospective affordable housing obligations in the form of a report to be issued not later than October 20, 2024. The DCA issued its report on October 18, 2024, (hereinafter “DCA Report”).
12. Pursuant to the DCA Report, the DCA calculated Franklin’s present affordable housing obligation as 0 units and prospective affordable housing obligations as 52 units.
13. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations based upon the methodology set forth in the Act and binding the municipality to adopt a Housing Element and Fair Share Plan based on the determinations in the resolution.

14. The Township Resolution determined the Present Need obligation of Franklin is 0 and its Prospective Need obligation is 52 based upon the methodology and calculations contained in the DCA Report.
15. The Township Resolution committed the Township to adopting a housing element and fair share plan based upon the determinations set forth in the Township Resolution and as may be adjusted by the Alternate Dispute Resolution Program, in accordance with N.J.S.A. 52:27D-304.1(3)(f)(2), or as may be subsequently adjusted based upon the reservation of rights.
16. Franklin seeks the approval of, and confirmation by, the Program and the Court of its Present and Prospective affordable housing obligations, as set forth in the Township Resolution attached hereto and made a part hereof as Exhibit A, or the adjustment of those obligations consistent with the Act and the applicable COAH regulations
17. Pursuant to the Township Resolution, the Township of Franklin reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, legislative change to the Act, and/or other reservation of rights set forth therein.
18. Pursuant to the Township Resolution, Franklin specifically reserves the right to seek and obtain:
  - a. A vacant land adjustment, durational adjustment, and all other applicable adjustments permitted;
  - b. The right to comply with any future changes in legislation that may change its obligations under current law including any additional change to the FHA;

- c. The right to adjust the fair share obligations in the event of any future legislation that adjusts the fair share obligations as set forth in the DCA Report calculations;
  - d. The right to adjust its fair share obligation based on any future adjudication by a court of competent jurisdiction; and
  - e. The right to adjust its fair share obligation in the event of a Third-Party challenge to the fair share obligations and the Township of Franklin's response, including that its prospective need obligation should be lower than described herein
19. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, ("HEFSP") must be prepared, adopted by the Planning Board, and endorsed by the municipality by June 30, 2025.
20. Pursuant to the Township Resolution, Franklin hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation:
- a. A Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land;
  - b. A Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water);
  - c. Any and all other adjustments permitted;
  - d. An adjustment based on any future legislation that changes its obligation under current law including any change to the FHA;
  - e. An adjustment in the event of any future legislation that adjusts the fair share

obligations as set forth in the DCA Report calculations;

- f. An adjustment based upon any ruling in litigation involving affordable housing obligations;
  - g. Any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations; and
  - h. The right to adjust its fair share obligation in the event of a Third-Party challenge to the fair share obligations and the Township of Franklin's response, including that its prospective need obligation should be lower than described.
21. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.
22. The Township of Franklin has met the deadline for the adoption and filing of its binding resolution (and the filing of this DJ Action in accordance with Directive # 14-24) not later than January 31, 2025, by adopting the binding Township Resolution attached to this DJ Action as Exhibit A and commits to the adoption of its HEFSP by the June 30, 2025, deadline.

**WHEREFORE**, the Township of Franklin seeks a declaratory judgment for the following relief:

- 1. Declaring that Franklin has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as Exhibit A to this DJ Action

or to adjust such determination consistent with the Act and COAH regulations;

2. Declaring the present and prospective affordable housing obligations of Franklin under the Act;
3. Declaring that Franklin continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations;
4. Declaring the approval of Franklin's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Committee, including, as appropriate and applicable, (a) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land, (b) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water), (c) All other adjustments permitted, (d) an adjustment based on any future legislation that changes its obligation under current law including any changes to the FHA or Act, (e) an adjustment in the event of any future legislation that adjusts the fair share obligations as set forth in the DCA Report calculations, (f) an adjustment based upon any ruling in litigation involving affordable housing obligations, (g) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations and (h) an adjustment in the event of a Third-Party challenge to the fair share obligations and the Township of Franklin's response,



including that its prospective need obligation should be lower than described;

5. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14- 24 to the Township of Franklin for the period beginning July 1, 2025 and ending June 30, 2035; and
6. Declaring such other relief that the Program and Court deem equitable and just.

#### **DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, notice is hereby given that Igor V. Bykov, attorney for the Declaratory Plaintiff, Township of Franklin, is designated as trial counsel in the above captioned matter.

#### **R. 4:5-1 CERTIFICATION**

Pursuant to Court Rule 4:5-1, the undersigned hereby certifies that to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration proceeding, no other action or arbitration proceeding is contemplated, and there are no other parties known which should be joined in this action. I further certify that the within document has been filed with the appropriate Court in a timely manner consistent with the Rules of Court.

#### **RULE 1:38 CERTIFICATION**

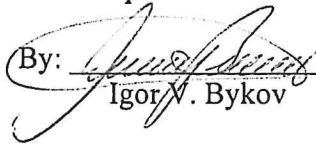
I certify that confidential personal identifiers, if any, have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in

accordance with the Rules of Court.

**CERTIFICATION OF SERVICE**

I hereby certify that the within Complaint was filed with the appropriate Court in a timely manner consistent with the Rules of Court.

**Lavery, Selvaggi & Cohen, P.C.**  
Attorneys for Declaratory Plaintiffs,  
Township of Franklin

By: \_\_\_\_\_  
Igor V. Bykov

Dated: January 29, 2025

# EXHIBIT A

**RESOLUTION NO. 2025-17  
TOWNSHIP OF FRANKLIN, HUNTERDON COUNTY**

**RESOLUTION OF THE TOWNSHIP OF FRANKLIN, COUNTY OF HUNTERDON,  
STATE OF NEW JERSEY, ESTABLISHING THE TOWNSHIP'S PRESENT AND  
PROSPECTIVE FAIR SHARE OBLIGATIONS FOR AFFORDABLE HOUSING FOR  
THE FOURTH ROUND 10-YEAR PERIOD OF 2025-2035 AND AUTHORIZING THE  
FILING OF A DECLARATORY JUDGMENT ACTION SEEKING A CERTIFICATE  
OF COMPLIANCE IN ACCORDANCE WITH THE FAIR HOUSING ACT**

**WHEREAS**, on March 20, 2024, Governor Philip D. Murphy signed into law Amendments to the Fair Housing Act, N.J.S.A. 52:37D-301 et. seq., requiring the Department of Community Affairs (hereafter "DCA") to conduct a calculation of regional need and municipal present and prospective fair share obligations for affordable housing in accordance with the formulas established in N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3 beginning with the fourth 10-year round of housing obligations commencing July 1, 2025, (hereafter "Fourth Round") and to render a report with regard to the same; and

**WHEREAS**, the Department of Community Affairs published its report in October of 2024 (hereinafter DCA Report"); and

**WHEREAS**, the DCA Report calculated the Township's Fourth Round (2025-2035) fair share affordable obligation as a present need of 0 and a prospective need of 52; and

**WHEREAS**, the DCA Report is not binding upon the municipalities; and

**WHEREAS**, the Amended Fair Housing Act 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 P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m); and

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

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(3)(f)(1), with consideration of the calculation contained in the aforesaid DCA Report, each municipality must determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3 by resolution, which describes the basis for the municipality's determination and binds the municipality to adopt a housing element and fair share plan pursuant to paragraph 2 of N.J.S.A. 52:27D-304.1(3)(f); and

**WHEREAS**, the Township has reviewed the DCA Report titled Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background (hereafter "DCA Report"), and its supporting documents,

**WHEREAS**, based upon the foregoing, the Franklin Township accepts the DCA calculations of Franklin Township's fair share obligations and commits to its fair share of 0 present need units and 52 prospective need units subject to any vacant land and/or durational adjustment it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Amended Fair Housing Act; and

**WHEREAS**, this resolution satisfies the requirements of P.L. 2024, c.2 by accepting the DCA estimate of need, as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended Fair Housing Act 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 P.L. 2024, c.2; and

**WHEREAS**, the Township's calculation of its need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of P.L. 2024, c.2; and

**WHEREAS**, the Township is aware of certain litigation before the Courts and potential additional changes to the Fair Housing Act, and therefore reserves the right to adjust its obligation based upon any adjudication in the Courts, change in legislation, change in methodology or DCA Report, in the event of a Third-Party challenge, and commits to the within obligation numbers subject to all reservations of rights;

**WHEREAS**, in light of the above, the Township Committee of Franklin Township finds it is in the best interest of Franklin Township to declare its commitment to the Present Need obligation and Prospective Need Obligation reported in the DCA Report, subject to the reservations set forth herein; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a certificate of compliance with the Fair Housing Act shall file an action in the form of a declaratory judgment complaint in which the municipality is located within 48 hours after adoption of this resolution in Hunterdon County.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Township Committee of Franklin Township, County of Hunterdon, State of New Jersey, as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Pursuant to N.J.S.A. 52:27D-304.1(3)(f)(1) and in conformance with the formulas set forth in N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:37D-304.3, the Township Committee of Franklin Township commits to the present fair share obligation for affordable housing of 0 units and prospective fair share obligation for affordable housing of 52 units based upon the DCA

Report, for the Fourth Round, subject to all reservation of rights, including but not limited to the following:

- a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted;
- b. The right to comply with any future changes in legislation that changes its obligations under current law including any additional changes to the Fair Housing Act;
- c. The right to adjust the fair share obligations in the event of any future legislation that adjusts the fair share obligations as set forth in the DCA Report calculations;
- d. The right to adjust its fair share obligation based on any future adjudication by a court of competent jurisdiction; and
- e. The right to adjust its fair share obligation in the event of a Third-Party challenge to the fair share obligations and Franklin Township's response, including that its prospective need obligation should be lower than described herein;


3. The Township Attorney is hereby authorized to file a Declaratory Judgment complaint in Hunterdon County seeking a certificate of compliance as to the Township's Fourth Round Affordable Housing obligation, which action shall be filed within 48 hours of the adoption of this resolution and attaching this resolution as an exhibit.

4. A certified copy of this resolution, along with the filing date of the Declaratory Judgment action shall be submitted and/or filed with the Alternate Dispute Resolution Program or any other such entity as may be determined to be appropriate. A certified copy of the resolution shall also be posted on the municipal website.

5. The Township shall adopt a housing element and fair share plan based upon the determinations set forth in this Resolution and as may be adjusted by the Alternate Dispute Resolution Program in accordance with N.J.S.A. 52:27D-304.1(3)(f)(2) or as may be subsequently adjusted based upon the reservation of rights.

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

I, Christine Burke, Clerk of the Township of Franklin, County of Hunterdon, do hereby certify that the foregoing is a true and exact copy of the resolution adopted by the Franklin Township Committee on January 28, 2025.

  
Christine Burke  
Township Clerk

