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January 30, 2025

File No.: 04719-322

**VIA E-MAIL AND REGULAR MAIL**

Adam Gordon, Esquire/Executive Director  
Fair Share Housing Center, Inc.  
510 Park Boulevard  
Cherry Hill, NJ 08002

**Re: In the Matter of the Application of the Township of Cinnaminson, a  
Municipal Corporation of the State of New Jersey  
Docket No. BUR-L-000238-25**

Dear Mr. Gordon:

Enclosed please find the Complaint for Declaratory Judgment filed today on behalf of the Township of Cinnaminson.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



JOHN C. GILLESPIE

JCG:jth

Encl.

**VIA E-MAIL ONLY:**

cc: Eric J. Schubiger, Township Administrator  
Michael Minton, Economic Development Coordinator  
Lisa A. Passione, RMC, Township Clerk  
Francis J. Banisch, III, P.P.  
Joanna Slagle, PP/AICP

4900-9220-4564, v. 1

**COUNSEL WHEN IT MATTERS.<sup>SM</sup>**

Mount Laurel, New Jersey | Hamilton, New Jersey | Atlantic City, New Jersey | Camden, New Jersey

File No. 04719-0322-JCG

**Law Offices**

**PARKER McCAY P.A.**

**By: John C. Gillespie, Esquire**

**Atty ID # 030831980**

**9000 Midlantic Drive, Suite 300**

**P.O. Box 5054**

**Mount Laurel, New Jersey 08054**

**(856) 596-8900**

**Attorneys for Petitioner, Township of Cinnaminson**

**IN THE MATTER OF THE  
APPLICATION OF THE TOWNSHIP  
OF CINNAMINSON, a Municipal  
Corporation of the State of New Jersey,**

Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
BURLINGTON COUNTY  
DOCKET NO.

CIVIL ACTION  
(MOUNT LAUREL)

**COMPLAINT FOR DECLARATORY  
RELIEF PURSUANT TO THE  
FAIR HOUSING ACT,  
N.J.S.A. 52:27D-301 ET SEQ.**

Petitioner, the Township of Cinnaminson (hereinafter "Petitioner" and/or "Cinnaminson" and/or "Township"), a municipal corporation of the State of New Jersey, having its principal place of business at 1621 Riverton Road, Cinnaminson, New Jersey 08077, in the County of Burlington, by way of Complaint for Declaratory Judgment as authorized under Directive #14-24 of the Administrative Office of the Courts alleges and says:

**BACKGROUND**

Through this Declaratory Judgment Action, Cinnaminson seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution

Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to Directive # 14-24; (b) to have the Program and the Court approve the Township’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Township, attached hereto as Exhibit 1; (c) to have the Program and the Court approve a Housing Element and Fair Share Plan (“HEFSP”) to be adopted by the Land Use Board and endorsed by the Township Committee and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this Declaratory Judgment Action and binding resolution, to have the Program and the Court confirm the Township’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Township receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

#### COUNT ONE

1. The Township is a body politic and corporate organized under the laws of the State of New Jersey, located in Burlington County in Region 5, pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (“FHA”).



2. On March 20, 2024, the State of New Jersey adopted legislation (P.L. 2024, c.2) amending the FHA (hereinafter “Amended FHA”) and establishing a new framework for determining and enforcing municipalities’ affordable housing obligations under the New Jersey Supreme Court’s Mount Laurel doctrine.

3. The Amended FHA requires that the Department of Community Affairs (“DCA”) perform a calculation of regional need, and municipal present and prospective affordable housing needs, in accordance with the formulas established in sections 6 and 7 of the law.

4. In order for a municipality to maintain immunity from exclusionary zoning litigation, it must either accept DCA’s estimation or calculate its own present and prospective obligations pursuant to the prescribed formulas and pass a binding resolution no later than January 31, 2025.

5. Next, a municipality may pursue a determination of its present and prospective obligation before a county-level housing judge as part of a resulting declaratory judgment action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313), as amended by P.L.2024, c.2 (C.52:27D-304.1 et al).

6. Administrative Directive 14-24 of the Administrative office of the Courts, dated December 13, 2024, provides that, “A municipality seeking a certification of compliance with the FHA shall file an action in the form of declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located.”

7. Jurisdiction is proper with the Superior Court, Law Division, Burlington County before the designated Mount Laurel Judge for Region 5.

8. On October 18, 2024, the DCA released its “Affordable Housing Obligations

For 2025-2035 (Fourth Round)” report (“DCA Report”), establishing the Fourth Round (2025-2035) fair share methodology and providing its estimations of low- and moderate-income housing obligations for New Jersey’s 564 municipalities.

9. The Amended FHA provides that the DCA Report is non-binding, thereby permitting municipalities to deviate from the DCA’s estimation, provided the municipality can demonstrate that the Amended FHA would support a lower fair share calculation.

10. The DCA calculated the Prospective Need based on three allocation factors: (1) the Nonresidential Valuation Factor; (2) the Income Capacity Factor; and (3) the Land Capacity Factor.

11. The Land Capacity Factor is determined by calculating the total acreage that is developable using the most recent land use/land cover data from the New Jersey Department of Environmental Protection, MOD-IV Property Tax List data from the Division of Taxation in the Department of Treasury, and construction permit data from the Department of Community Development. Developable land was weighted based on the planning area type.

12. The DCA Report notes that the mandated datasets for use by the legislation had significant limitations, including the age of the data and inconsistencies between source datasets.

13. The DCA Report calculates the Township of Cinnaminson’s Round 4 obligations as follows:

- Present or Rehabilitation Obligation: 32
- Prospective Need or New Construction Obligation for Round 4: 93

14. After reviewing the DCA Report and conducting an analysis based on the approved Fourth Round methodology, and utilizing current data and replacing the DCA’s

data from 2020 with same, the Township Planner, Francis J. Banisch, III, P.P. (the "Planner") has re-calculated the Prospective Need obligation and has recommended its downward adjusted from 93 to 86.

15. As a result, on January 29, 2025, the Township Committee of the Township of Cinnaminson memorialized a resolution accepting the Present Need obligation of 32 and a Prospective Need obligation of 86 based on the Township Planner's evaluation of the Lands available for future development.

16. The Township brings the within declaratory judgment proceedings pursuant to the Amended FHA and P.L. 2024, c.2 seeking a certification of compliance, repose and immunity from exclusionary zoning lawsuits for its Fourth Round affordable housing obligation for a period of ten (10) years based upon its Present Need and rehabilitation share of 32 units and Prospective Need of 86 units, whereupon the Township commits to prepare and submit a new Fourth Round HEFSP for the Court's review and approval.

17. The Township seeks the grant of temporary immunity which will facilitate the Township's ability to voluntarily achieve constitutional compliance, to the extent it has not already done so (a) as quickly as possible (b) with as little burden to the public as possible (c) without the need for duplicitous litigation and (d) in such a manner so that all the public's attention and resources can be channeled into achieving constitutional compliance and creating affordable housing, and not expended on exclusionary zoning or builder's remedy litigation and/or other similar litigation.

18. The application of temporary immunity in such circumstances will facilitate the primary objective of the Mount Laurel doctrine, which is to foster voluntary constitutional compliance and avoid unnecessary litigation.

19. The Township of Cinnaminson also seeks voluntary admission into the Affordable Housing Dispute Resolution Program.

20. At the present time, no litigation based upon Southern Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II) and/or the Fair Housing Act and/or COAH regulations is presently pending against the Township of Cinnaminson.

21. Pursuant to the binding resolution, Cinnaminson Township specifically reserves the right to seek and obtain (i) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (ii) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (iii) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (iv) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

**WHEREFORE**, Petitioner, Township of Cinnaminson, demands judgment for an order granting the following relief:

1. Declare pursuant to N.J.S.A. 52:27D-304.1, that the Township of Cinnaminson is under the Court's voluntary compliance declaratory judgment jurisdiction.
2. The entry of an immunity order protecting the Township and its Planning Board from Mount Laurel lawsuits while (a) the Court reviews the Township's HEFSP; (b) for such further period of time as the Court deems just and reasonable.
3. Confirming the Township of Cinnaminson Fourth Round Affordable Housing requirements as Present Need: Thirty-Two (32) units and Prospective Need: Eighty-Six (86) units.



4. Establish the Township's Fourth Round Prospective Need affordable housing obligation from 2025 to 2035 and provide the Township with sufficient time to prepare a revised HEFSP to attempt to address its cumulative housing obligations.
5. The entry of a Judgment of Compliance and Repose upon the final review and approval of the HEFSP that insulates the Township and its Planning Board from Mount Laurel lawsuits until June 30, 2035.
6. Declaring the approval of Cinnaminson Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Committee, including, as appropriate and applicable, (i) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (ii) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (iii) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (iv) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.
7. The grant of such other relief as may be just and equitable.

PARKER McCAY P.A.  
Attorneys for Petitioner,  
Township of Cinnaminson

BY: 

JOHN C. GILLESPIE, ESQUIRE

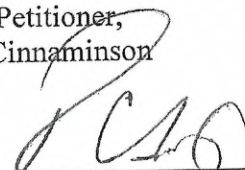
Dated: January 30, 2025



**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, John C. Gillespie, Esquire is hereby designated as Trial Counsel for Petitioner, Township of Cinnaminson.

PARKER McCAY P.A.  
Attorneys for Petitioner,  
Township of Cinnaminson

BY:   
JOHN C. GILLESPIE, ESQUIRE

Dated: January 30, 2025

**CERTIFICATION**

Pursuant to Rule 4:5-1, it is hereby certified 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 knowledge and belief. To the best of our knowledge, no action, arbitration or administrative proceeding is contemplated. Furthermore, we know of no other parties that should be joined in the above action.

PARKER McCAY P.A.  
Attorneys for Petitioner,  
Township of Cinnaminson

BY:   
JOHN C. GILLESPIE, ESQUIRE

Dated: January 30, 2025

**CERTIFICATION OF COMPLIANCE WITH ADMINISTRATIVE  
DIRECTIVE 14-24**

I hereby certify that I caused the within Complaint for Declaratory Judgment to be filed within 48 hours after the adoption of the Municipal Resolution of Fourth Round Fair Share obligations.

PARKER McCAY P.A.  
Attorneys for Petitioner,  
Township of Cinnaminson

BY:   
JOHN C. GILLESPIE, ESQUIRE

Dated: January 30, 2025

4899-2357-8132, v. 1

# EXHIBIT 1



TOWNSHIP OF CINNAMINSON

RESOLUTION 2025 – 41

RESOLUTION ESTABLISHING CINNAMINSON TOWNSHIP'S FOURTH  
ROUND AFFORDABLE HOUSING REQUIREMENTS

WHEREAS, on March 20, 2024, Governor Murphy signed *P.L.2024, c.2*, into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the State's Fair Housing Act; and

WHEREAS, the law requires that the New Jersey Department of Community Affairs ("DCA") perform a calculation of regional need, and municipal present and prospective affordable housing needs, in accordance with the formulas established in the law; and

WHEREAS, on October 18, 2024, the DCA released its "Affordable Housing Obligations For 2025-2035 (Fourth Round)" report, establishing the Fourth Round (2025-2035) fair share methodology and calculations of low- and moderate-income housing obligations for New Jersey's 564 municipalities; and

WHEREAS, the final calculation and obligations for each municipality are presented in an Appendix at the end of the report; and

WHEREAS, the Amended Fair Housing Act provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a lower fair share calculation; and

WHEREAS, per *P.L. 2024, c.2*, in order for Cinnaminson Township to maintain immunity from exclusionary zoning litigation, it must determine its municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of the law by binding resolution no later than January 31, 2025; and

WHEREAS, *P.L. 2024, c.2* permits Cinnaminson Township to diverge from the DCA's calculations in determining its obligations; in case local factors exist that make the calculations unreasonable, so long as Cinnaminson Township adheres to the methodology set forth in *P.L. 2024, c.2*; and

WHEREAS, Cinnaminson must take into consideration the calculations in the October 8, 2024 report published by the DCA to determine its obligations; and

WHEREAS, the present and prospective fair share obligations of the Cinnaminson Township were identified as follows:

- Present Need: 32 units
- Prospective Need: 93 units

WHEREAS, the Township's Planner and other Township professional staff possess actual knowledge of present conditions in Cinnaminson which were not known to the DCA officials that evaluated Cinnaminson through raw data sets and land use/land cover data reflecting land uses and coverages in 2020; and

WHEREAS, such present day conditions, history and knowledge could not be known to DCA officials that were evaluating every municipality in the State of New Jersey; and

WHEREAS, the Township professionals evaluated DCA's land capacity factor analysis and identified land in Cinnaminson that should not be included as developable; and

WHEREAS, the Planner tabulated these areas and confirmed that the developable lands in Cinnaminson should be reduced from 77.107 acres to 32.30 acres; and

**WHEREAS**, the Township Planner has determined that the Land Capacity Allocation Factor must be adjusted from 0.4% of the region's land capacity (based on 77.107 acres) to 0.2% of the region's land capacity (based on 32.30 acres). The land capacity was adjusted by removing the following land which was improperly included as developable land in the DCA's calculation:

- (1) Preserved land owned by the State of New Jersey, County of Burlington, Cinnaminson Township and Homeowners' Associations such as:
  - a. Open space/parkland properties with deed restrictions and/or on Recreation and Open Space Inventory (ROSI);
  - b. Properties with easements or agreements restricting development;
- (2) Lands containing utility infrastructure and/or stormwater management facilities;
- (3) Lands that have been developed, that are fully approved for development, or that are identified as inclusionary sites in the Third Round Settlement Agreement and Housing Element and Fair Share Plan; and
- (4) Arcas identified as undevelopable by size, use, orientation, or some combination thereof;
- (5) Riparian Areas.

**WHEREAS**, in addition to reducing Cinnaminson's land capacity factor the Planner also reduced the regional total land by the same amount and per DCA's original analysis, Cinnaminson had .4% of the region's land capacity, and per the Planner's analysis, Cinnaminson has .2% of the region's land capacity; and

**WHEREAS**, land capacity is one of three allocation factors to be considered; and

**WHEREAS**, the three allocation factors (land capacity factor, nonresidential valuation factor, income capacity factor) are averaged to find the "average allocation factor", which is multiplied by the regional prospective need to get the Township's obligation; and

**WHEREAS**, using the DCA's land capacity analysis Cinnaminson's average allocation factor was 1.02% and with the new land capacity number, the average allocation factor is .94%; and

**WHEREAS**, utilizing DCA's methodology, workbook, and formula, but with the current data, reduces the Township's Round Four prospective need obligation from 93 to 86; and

**WHEREAS**, the Present Need number also use three proxy factors in to calculate the present need for each municipality including (a) the number of housing units lacking complete kitchen facilities, (b) the number of units lacking complete plumbing facilities and (c) the number of overcrowded units more than 50 years old that are occupied by low- and moderate-income households; and

**WHEREAS**, the Township's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

**WHEREAS**, within 48 hours of adoption of this resolution, the Municipal Clerk of Cinnaminson shall file this resolution on its official website and with the Affordable Housing Dispute Resolution Program; and

**WHEREAS**, pursuant to the Directive #14-24, a municipality seeking a certification in 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 the adoption of the municipal resolution of the fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, the Township of Cinnaminson seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this Resolution in Burlington County.

**NOW, THEREFORE, BE IT RESOLVED** on this 29<sup>th</sup> day of January, 2025, by the Township Committee of Township of Cinnaminson, in the County of Burlington, and the State of New Jersey that, pursuant to *P.L. 2024, c.2*:



1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution.
2. The Township Committee of the Township of Cinnaminson hereby accepts a Present Need obligation of 32 and a Prospective Need obligation of 86 as its Fourth Round (2025-2035) affordable housing obligation pursuant to P.L. 2024 c.2 and the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. These findings are to be documented in the Township's Housing Element and Fair Share Plan.
3. The Township Committee hereby directs its Affordable Housing Counsel to file a declaratory judgment attaching this resolution in Burlington County within 48 hours after adopting this resolution.
4. The Township reserves its right to adjust its Fourth Round Affordable Housing obligation subject to adjustments made to account for decisions of a court of competent jurisdiction, and such other adjustments as may prove to be available and appropriate in accordance with the Act and/or applicable COAH regulations. Any such adjustments will be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.
5. This resolution shall be posted on the Township's official website and with the Affordable Housing Dispute Resolution Program within 48 hours of adoption.
6. This resolution shall take effect immediately, according to law.

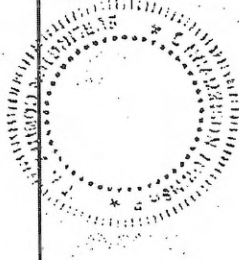
**CINNAMINSON TOWNSHIP COMMITTEE**

*Certified to be a true copy of a Resolution adopted by the Cinnaminson Township Committee on the 29<sup>th</sup> day of January 2025.*



*Lisa A. Passione, Municipal Clerk*

4931-2390-1971, v. 1





## Civil Case Information Statement

**Case Details: BURLINGTON | Civil Part Docket# L-000238-25**

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

**Case Initiation Date:** 01/30/2025

**Attorney Name:** JOHN C GILLESPIE

**Firm Name:** PARKER MCCAY, PA

**Address:** 9000 MIDLANTIC DR STE 300 PO BOX 5054  
MT LAUREL NJ 080545054

**Phone:** 8565968900

**Name of Party:** PETITIONER : TOWNSHIP OF  
CINNAMINSON

**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: TOWNSHIP OF CINNAMINSON?** 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)*

01/30/2025  
Dated

/s/ JOHN C GILLESPIE  
Signed

