

NOTICE TO THE BAR AND PUBLIC

AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM – SUPPLEMENT TO DIRECTIVE #14-24 – SUPERSEDING ADDENDUM (REQUIRED ELEMENTS OF HOUSING ELEMENT AND FAIR SHARE PLAN)

Directive #14-24 (“Civil - Affordable Housing Dispute Resolution Program – Implementation of L. 2024, c. 2) included as an Addendum a document entitled “Required Elements of Housing Element and Fair Share Plan”). That Directive was published by a [Notice](#) dated December 18, 2024. The attached June 23, 2025 Supplement to Directive #14-24 promulgates a revised superseding version of that Addendum.

This Superseding Addendum to Directive #14-24 incorporates the following clarifying revisions as directed by Assignment Judge Robert A. Lougy in his June 11, 2025 order in the consolidated action Borough of Montvale et alia v. State of New Jersey, Affordable Housing Dispute Resolution Program et alia, L-1778-24

1. As set forth in Paragraph A(4), a municipality shall submit their HEFSP to Fair Share Housing Center (FSHC) only in those matters where the municipality and FSHC entered a settlement agreement addressing the municipality’s Fourth Round present and prospective need.
2. As set forth in Paragraph B, a municipality shall satisfy the requirement of submitting “adopted ordinances and resolutions” by submitting those proposed drafts of the ordinances and resolutions that the governing body has approved for submission to the Affordable Housing Dispute Resolution Program for review.

Questions regarding the Superseding Addendum, the Supplement to the Directive, and Directive #14-24 should be directed to the Civil Practice Division in the Administrative Office of the Courts at (609) 815-2900 x54900 or by email to CivilWebSites.Mailbox@njcourts.gov.



Michael J. Blee, J.A.D.

Acting Administrative Director of the Courts

Dated: June 23, 2025

Michael J. Blee, J.A.D.

Acting Administrative Director of the Courts

Richard J. Hughes Justice Complex • P.O. Box 037 • Trenton, NJ 08625-0037

njcourts.gov • Tel: 609-376-3000 • Fax: 609-376-3002

**TO: Assignment Judges
Trial Court Administrators**

**FROM: Michael J. Blee, J.A.D.,
Acting Administrative Director**

**SUBJ: Civil - Affordable Housing Dispute Resolution Program – Revised
Addendum to Directive #14-24 – Required Elements of Housing
Element and Fair Share Plan**

DATE: June 23, 2025

**Addendum to
Directive #14-24**

Questions may be directed to
(609) 815-2900 ext. 54900

Directive #14-24 (“Civil - Affordable Housing Dispute Resolution Program – Implementation of L. 2024, c. 2”) included as an Addendum a document entitled “Required Elements of Housing Element and Fair Share Plan”). This supplement promulgates a revised superseding version of that Addendum.

As set forth in the Directive, in actions under the legislation, after the entry of an order determining present and prospective fair share obligations, the municipality must file with the Program its adopted housing element and fair share plan (which must include the elements set forth in the Addendum) within 48 hours after adoption or by June 30, 2025, whichever is sooner. Actions that do not meet the statutory deadline will not be considered by the Program. A municipality may apply prior to the expiration of the deadline to the vicinage’s Mt. Laurel judge for a grace period pursuant to N.J.S.A. 52:27D-313.

In his June 11, 2025 Order Denying Plaintiffs’ Application for Injunctive Relief in the consolidated action Borough of Montvale et alia v. State of New

Jersey, Affordable Housing Dispute Resolution Program et alia, L-1778-24, Assignment Judge Robert A. Lougy directed that the following clarifying revisions be made to the Addendum:

For purposes of Addendum § A(4), a municipality shall submit their Housing Element and Fair Share Plan (“HEFSP”) to FSHC only in those matters where the municipality and FSHC entered a settlement agreement addressing the municipality’s Fourth Round present and prospective need.

For purposes of Addendum § B, a municipality shall satisfy the requirement of submitting “adopted ordinances and resolutions” by submitting those proposed drafts of the ordinances and resolutions that the governing body has approved for submission to the Program for review. Nothing in the Directive modifies the requirements of N.J.S.A. 52:27D-304.1(f)(2)(c). [opinion pages 2-3]

The attached Superseding Addendum (“Required Elements of Housing Element and Fair Share Plan (Revised June 23, 2025)”) reflects those revisions as directed by Judge Lougy.

Questions may be directed to the Administrative Office of the Courts, Civil Practice Division, by phone at 609-815-2900, ext. 54900 or by email to CivilWebSites.Mailbox@njcourts.gov.

Attachment (Superseding Addendum to Directive #14-24)

cc: Chief Justice Stuart Rabner
Civil Presiding Judges
Mt. Laurel Judges
Program Members
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Melissa A. Czartoryski, Chief, Civil Practice
Civil Division Managers

**REQUIRED ELEMENTS OF HOUSING ELEMENT
AND FAIR SHARE PLAN (Revised June 23, 2025)**

**[Superseding Addendum to Directive #14-24 as Issued by
June 23, 2025 Supplement to that Directive]**

- A. The Housing Element and Fair Share Plan (HEFSP) will need to be prepared to reflect all of the terms of any applicable settlement agreement and to meet all of the statutory requirements for such documents as well as the following:
1. One of the requirements for a final HEFSP is the inclusion of detailed site suitability analyses, based on the best available data, for each of the un-built inclusionary or 100 percent affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.
 2. The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis. When the detailed analyses are completed, the municipality can see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by any settlement agreement will actually be produced. If it becomes apparent that one (or more) of the sites in the plan does not have the capacity to accommodate all of the development proposed for it, the burden will be on the municipality either to adjust its zoning regulations (height, setbacks, etc.) so that the site will be able to yield the number of units and affordable units anticipated by any settlement agreement or to find other mechanisms or other sites as needed to address the likelihood of a shortfall.

3. The final HEFSP must fully document the creditworthiness of all of the existing affordable housing units in its HEFSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided.

4. In matters where the municipality and Fair Share Housing Center (FSHC) entered into a settlement agreement addressing Fourth Round present and prospective need, the HEFSP must be reviewed by FSHC for compliance with the terms of the settlement agreement, the Fair Housing Act (FHA) and Uniform Housing Affordability Controls (UHAC) regulations.

B. The HEFSP must also include (in an Appendix) all of the proposed drafts of ordinances and resolutions that the governing body has approved for submission to the Program and needed to implement the HEFSP, including the following:

1. All zoning amendments (or redevelopment plans, if applicable).

2. An Affordable Housing Ordinance that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in any settlement agreement, requirements regarding very low income housing and very low

income affordability consistent with the FHA and any settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).

3. The adoption of the mandatory set aside ordinance, if any, and the repeal of the existing growth share provisions of the code.
4. An executed and updated Development Fee Ordinance that reflects the court's jurisdiction.
5. An Affirmative Marketing Plan adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in any settlement agreement.
6. An updated and adopted Spending Plan indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.
7. A resolution of intent to fund any shortfall in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.
8. Copies of the resolution(s) and/or contract(s) appointing one or more Administrative Agent(s) and of the adopted ordinance creating the position of, and resolution appointing, the Municipal Affordable Housing Liaison.

9. A resolution from the Planning Board adopting the HEFSP, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a resolution of the governing body endorsing the HEFSP.

C. Consistent with N.J.A.C. 5: 93-5.5, any municipally sponsored 100 percent affordable housing development will be required to be shovel-ready within two (2) years of the deadlines set forth in any settlement agreement:

1. The municipality will be required to submit the identity of the project sponsor, a detailed pro forma of project costs, and documentation of available funding to the municipality and/or project sponsor, including any pending applications for funding, and a commitment to provide a stable alternative source, in the form of a resolution of intent to fund shortfall, including by bonding, if necessary, in the event that a pending application for outside funding has not yet been not approved.
2. Additionally, a construction schedule or timetable must be submitted setting forth each step in the development process, including preparation and approval of a site plan, applications for state and federal permits, selection of a contractor, and start of construction, such that construction can begin within two (2) years of the deadline set forth in any settlement agreement.