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January 17, 2025

Via eCourts and Regular Mail

Clerk, Law Division
Monmouth County Superior Court
Monmouth County Courthouse
71 Monument Street
Freehold, New Jersey 07728

**Re: In the Matter of the Application of the Township of Aberdeen
Our File No.: 4293.104**

Dear Sir or Madam:

Please be advised that this office represents Declaratory Plaintiff, Township of Aberdeen (the "Township") in connection with the above referenced matter. Enclosed, please find a copy of a Declaratory Judgment Action filed by the Township with the Affordable Housing Dispute Resolution Program in connection with the Township's affordable housing obligations for the Fourth Round. The within is filed pursuant to N.J.S.A. 52:27D-304.1, et seq. and Directive No. 14-24 of the Administrative Offices of the Courts.


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RAINONE COUGHLIN MINCHELLO
January 17, 2025
Page 2

Very truly yours,

RAINONE COUGHLIN MINCHELLO, LLC

By: 
Christopher Daniskas Zingaro, Esq.

Encls.

cc: Department of Community Affairs, Division of Local Government Services,
(via *Certified and Regular Mail*)

Ronald H. Gordon, Esq. – (ID#01941979)
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Attorneys for Declaratory Plaintiff, Township of Aberdeen

IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF ABERDEEN,
COUNTY OF MONMOUTH, A Municipal
Corporation of the State of New Jersey

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY

DOCKET NO.: _____

CIVIL ACTION

**COMPLAINT FOR DECLARATORY
JUDGMENT PURSUANT TO N.J.S.A.
52:27D-301, ET SEQ. AND AOC
DIRECTIVE #14-24**

Declaratory Plaintiff, Township of Aberdeen (the “Township” or “Aberdeen”), a municipal corporation and body politic organized under the laws of the State of New Jersey, with principal offices located at 1 Aberdeen Square, Aberdeen, New Jersey 07747, by way of this Declaratory Judgment Action (the “DJ Action”), alleges and says the following:

BACKGROUND

1. Declaratory Plaintiff, Township of Aberdeen is a body politic and corporate organized under the laws of the State of New Jersey.
2. On March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c.2), which amends the New Jersey Fair Housing Act, P.L. 1985, c.222 (N.J.S.A. 52:27D-301, et seq.) (the “Amended FHA”).

3. Pursuant to the Amended FHA, municipalities are required to determine the Present Need obligation and Prospective Need obligation of their fair share of the regional need for affordable housing (“Fair Share Obligation”) during the 10-year period beginning on July 1, 2025 (the “Fourth Round”).

4. Pursuant to the Amended FHA, should a municipality determine its Fair Share Obligation by January 31, 2025, the municipality’s determination shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, unless challenged by an interested party on or before February 28, 2025.

5. Pursuant to the Amended FHA, any challenge to a municipality’s determination must be initiated through the Affordable Housing Alternative Dispute Resolution Program (the “Program”), explain with particularity how the municipality’s calculation fails to comply with N.J.S.A. 52:27D-304.2 and 52:27D-304.3, and include the challenger’s own calculation of the municipality’s Fair Share Obligation in compliance with said sections.

6. On October 18, 2024, the New Jersey Department of Community Affairs (the “DCA”) published a report with an estimate of the fair share affordable housing obligations of all municipalities, which, pursuant to the Amended FHA, shall not be binding on a municipality when calculating a municipality’s respective Fair Share Obligation (the “DCA Report”).

7. On January 16, 2025, upon receipt of the recommendations and findings of the Township’s professionals, the Township Council of the Township of Aberdeen adopted a duly authorized Resolution determining the Township’s Fair Share Obligation for the Fourth Round, which consists of a Present Need obligation of zero (0) units and a Prospective Need obligation of ninety-nine (99) units. A copy of said Resolution is attached to this DJ Action as **Exhibit A**.

8. Pursuant to the Amended FHA and Directive No. 14-24 of the Administrative Offices of the Courts, the Township has filed this DJ Action with the Program to: (a) secure the jurisdiction of the Program and the Court; (b) establish the Township's presumptively valid calculation of its Present Need and Prospective Need obligations, as set forth in the duly adopted Resolution attached as **Exhibit A**; (c) obtain issuance of a "Compliance Certification" following the Township's preparation and submission of a Housing Element and Fair Share Plan ("HEFSP"), which shall in part grant immunity to the Township from all exclusionary zoning litigation, including builder's remedy lawsuits, for the Fourth Round, i.e. through June 30, 2035; (d) to the extent not automatically granted pursuant to the Amended FHA, confirm the Township's continuing immunity from all exclusionary zoning litigation, including builder's remedy lawsuits, during the pendency of the process established by the Amended FHA for establishing a Fair Share Obligation, preparing a HEFSP, and securing a Compliance Certification; and (e) secure all other relief appropriate to ensure the Township receives and obtains all protections afforded by the Amended FHA, including but not limited to all immunities and presumptions of validity necessary to satisfy the Township's affordable housing obligations voluntarily without having to endure the expense and burden of unnecessary third party litigation.

COUNT ONE

DECLARATORY RELIEF ESTABLISHING THE PRESENT AND PROSPECTIVE NEED OF THE TOWNSHIP OF ABERDEEN PURSUANT TO N.J.S.A. 52:27D-304.1, ET SEQ.

9. The Township repeats and incorporates herein each and every allegation set forth in the previous paragraphs as if set forth herein in full.

10. Pursuant to N.J.S.A. 52:27D-304.1, et seq., the Township, by way of this DJ Action, seeks the confirmation of the Program and the Court of its Present and Prospective affordable

housing obligations set forth in the binding Resolution attached hereto and made a part hereof as **Exhibit A**.

11. The Township reserves its right to revise its Fair Share Obligation in the event that a decision of a court of competent jurisdiction, or an action by the New Jersey Legislature, alters the Amended FHA or the meaning of the Amended FHA.

12. The Township reserves its right to take a Vacant Land Adjustment or Durational Adjustment, which may result in a reduction to the Township's Fair Share Obligation.

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

A. Declaring that the Township is properly within the jurisdiction of Program and the Court for the purpose of establishing its Fair Share Obligation.

B. Declaring, pursuant to N.J.S.A. 52:27D-304.1(f), that the Township's affordable housing obligations for the Fourth Round consists of a Present Need obligation of zero (0) units and a Prospective Need obligation of ninety-nine (99) units.

C. Declaring that the Township is entitled to immunity from all exclusionary zoning litigation, including builder's remedy lawsuits, during the pendency of the process established by the Amended FHA for establishing a Fair Share Obligation, preparing a HEFSP, and securing a Compliance Certification.

D. Such other relief that the Program and Court deems just and proper.

COUNT TWO

DECLARATORY RELIEF APPROVING THE TOWNSHIP'S HOUSING ELEMENT AND FAIR SHARE PLAN PURSUANT TO N.J.S.A. 52:27D-304.1, ET SEQ.

13. The Township repeats and incorporates herein each and every allegation set forth in the previous paragraphs as if set forth herein in full.

14. In compliance with the Amended FHA, the Township shall prepare a HEFSP demonstrating compliance with the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine, which said HEFSP shall apply, as appropriate, any applicable adjustments, including but not limited to a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; an adjustment based upon any ruling in litigation involving affordable housing obligations; and any other applicable adjustments permitted in accordance with the Act and/or applicable regulations.

15. Upon the adoption of the HEFSP by the Township of Aberdeen Planning Board, the Township shall file it with the Court and submit it to the Program.

16. After such filing, the Township will seek approval of the HEFSP and issuance of the relief set forth below.

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

- A. Declaring the approval of the Township’s HEFSP.
- B. Declaring that the Township is constitutionally compliant and issuing a Compliance Certification, with the force and effect of a Judgment of Compliance and Repose, or such other protections as afforded to the Township in complying the requirements of the Amended FHA, including but not limited to all immunities and presumption of validity, for the Fourth Round, i.e. the period beginning July 1, 2025 and ending June 30, 2035.

C. Declaring and issuing immunity to the Township from all exclusionary zoning litigation, including builder's remedy lawsuits, for the Fourth Round, i.e. the period beginning July 1, 2025 and ending June 30, 2035.

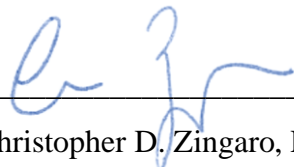
D. For such other relief as the court deems just.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Ronald H. Gordon, Esq. and Christopher D. Zingaro, Esq. are designated as trial counsel in the above captioned matter.

RAINONE COUGHLIN MINCHELLO, LLC
Attorneys for Declaratory Plaintiff,
Township of Aberdeen

Dated: January 17, 2025

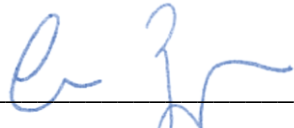
By: _____
Christopher D. Zingaro, Esq.

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I hereby certify that to the best of my knowledge: (1) the matter in controversy is not the subject of another action pending in this Superior Court; (2) no other action or arbitration proceeding is contemplated; and (3) no other necessary party to be joined in this litigation is presently known to counsel. Further, I hereby 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 R. 1:38-7(b)

RAINONE COUGHLIN MINCHELLO, LLC
Attorneys for Declaratory Plaintiff,
Township of Aberdeen

Dated: January 17, 2025

By:  _____
Christopher D. Zingaro, Esq.

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-000220-25

Case Caption: IN THE MATTER OF ABERDEEN TWP

Case Initiation Date: 01/17/2025

Attorney Name: CHRISTOPHER D ZINGARO

Firm Name: RAINONE COUGHLIN MINCHELLO, LLC

Address: 555 US HIGHWAY ONE SOUTH STE 440

ISELIN NJ 08830

Phone: 7327094182

Name of Party: PLAINTIFF : 1330

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: 1330? 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:

Fourth Round Affordable Housing Declaratory Judgment action

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)

01/17/2025

Dated

/s/ CHRISTOPHER D ZINGARO

Signed

RESOLUTION NO. 2025-38

TOWNSHIP OF ABERDEEN

RESOLUTION OF THE TOWNSHIP OF ABERDEEN, COUNTY OF MONMOUTH, ADOPTING THE TOWNSHIP'S PRESENT NEED AND PROSPECTIVE NEED FOR THE FOURTH ROUND OF AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, on March 20, 2024, Governor Murphy signed into law Bill A4/S50, codified as P.L. 2024, c.2, which amends the New Jersey Fair Housing Act, P.L. 1985, c.222 (N.J.S.A. 52:27D-301, et seq.) and other related housing laws (the "**Amended FHA**"); and

WHEREAS, pursuant to the Amended FHA, municipalities are required to determine the Present Need obligation (Rehabilitation) and Prospective Need obligation (New Construction) of their fair share of the regional need for affordable housing ("**Fair Share Obligation**") during the 10-year period beginning on July 1, 2025 (the "**Fourth Round**"); and

WHEREAS, pursuant to the Amended FHA, should a municipality determine its Fair Share Obligation by January 31, 2025, the municipality's determination shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, unless challenged by an interested party on or before February 28, 2025; and

WHEREAS, pursuant to the Amended FHA, any challenge to a municipality's determination must be initiated through the Affordable Housing Alternative Dispute Resolution Program (the "**Program**"), explain with particularity how the municipality's calculation fails to comply with N.J.S.A. 52:27D-304.2 and 52:27D-304.3, and include the challenger's own calculation of the fair share obligations in compliance with said sections; and

WHEREAS, on October 18, 2024, the New Jersey Department of Community Affairs (the "**DCA**") published a report with an estimate of the fair share affordable housing obligations of all municipalities (the "**DCA Report**"), which, pursuant to the Amended FHA, may be taken into consideration by a municipality but shall not be binding on a municipality when calculating a municipality's respective Fair Share Obligation; and

WHEREAS, the DCA Report calculates the Fourth Round obligations of the Township of Aberdeen (the "**Township**") as follows: a Present Need obligation of zero (0) units and a Prospective Need obligation of 101 units/credits; and

WHEREAS, the Township Council of the Township of Aberdeen (the "**Township Council**") has received the findings of the Township's planners, who reviewed the DCA Report and determined that a recalculation of the Land Capacity Allocation Factor was necessary in order to account for land use data errors in the DCA's calculation shown in attached **Exhibit A**; and

WHEREAS, after excluding lands that were inaccurately determined by the DCA to be "developable land," the Township's planners calculated that the Township's prospective need obligation should be reduced by two (2) units from DCA's initial calculations; and

WHEREAS, based upon these findings, the Township Council adopts a Fair Share Obligation for the Fourth Round consisting of a Present Need obligation of zero (0) units and a Prospective Need obligation of ninety-nine (99) credits/units; and

WHEREAS, in accordance with the Amended FHA, the Township reserves its right to take a vacant land adjustment, as well as any applicable durational adjustments, which may result in a reduction to the new construction portion of its Fair Share Obligation; and

WHEREAS, the Township reserves its right to revise its Fair Share Obligation in the event that a decision of a court of competent jurisdiction, or an action by the New Jersey Legislature, would result in a lower calculation of an obligation for the Township; and

WHEREAS, the Amended FHA requires municipalities to satisfy various administrative and procedural requirements in connection with the adoption of a municipality's Fair Share Obligation, including but not limited to the publication of this Resolution to the Township's publicly accessible Internet website and the filing of an action with the Program through the Judiciary's electronic filing systems, within forty-eight (48) hours of the adoption of this Resolution; and

WHEREAS, the Township Council directs the Township Clerk to satisfy all required notice and publications requirements, and authorizes the Township and its professionals to take all actions required to file the necessary action with the Program.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Aberdeen that the:

1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.
2. The Township of Aberdeen's Fair Share Obligation for the Fourth Round of affordable housing obligations consists of a Present Need obligation of zero (0) units and a Prospective Need obligation of ninety-nine (99) credits/units.
3. The Township reserves its right to take a vacant land adjustment, as well as any durational adjustments, which may result in a reduction to the new construction portion of its Fair Share Obligation.
4. The Township reserves its right to revise its Fair Share Obligation in the event that a decision of a court of competent jurisdiction, or an action by the New Jersey Legislature, would result in a lower calculation of an obligation for the Township.
5. The Municipal Clerk is directed to forward a copy of this Resolution to the Department of Community Affairs and to publish a copy to the Township's publicly accessible Internet website within forty-eight (48) hours of the adoption of this Resolution.

6. The Township's legal counsel is hereby directed to file an action with the Affordable Housing Alternative Dispute Resolution Program regarding this Resolution in compliance with the Amended FHA, and the Mayor and Township Clerk are authorized to execute any and all documents required for said purpose.
7. This Resolution shall take effect immediately.

SO RESOLVED, as aforesaid.

ROLL CALL VOTE:

Ayes: Councilmembers Cannon, Hirsch, Kelley, Martucci, Swindle, Deputy Mayor Montone,
Mayor Tagliarini

Nays: None

Abstain: None

Absent: None

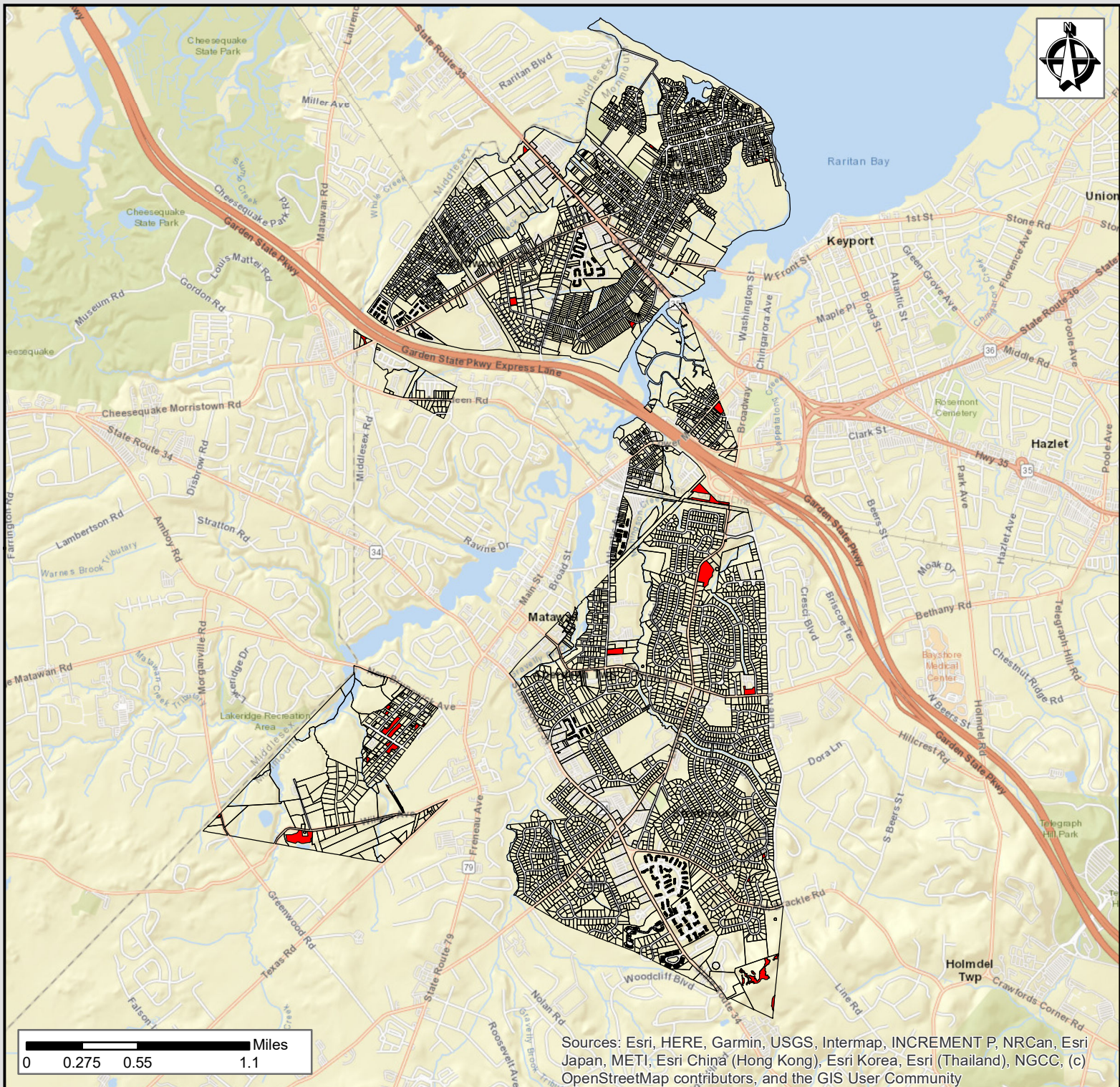
I hereby certify the foregoing to be a true copy of a Resolution
adopted by the Township Council of the
Township of Aberdeen on January 16, 2025



Melissa Pfeifer, Township Clerk



ABERDEEN TOWNSHIP - LAND CAPACITY



AFFORDABLE HOUSING ANALYSIS

**TOWNSHIP OF ABERDEEN
MONMOUTH COUNTY
NEW JERSEY**

Legend

- Vacant Land Output Selection
- Aberdeen Parcels

Source: NJDCA Land Capacity Analysis Mapping



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

DATE	SCALE	LAST REVISED	CREATED BY
01/16/2025	1 inch = 3,583 feet	N/A	NSF