



NEW JERSEY'S NEW AFFORDABLE HOUSING LAW AND HOW IT MAY AFFECT MORRIS TOWNSHIP

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Why does Morris Township Have to Provide Affordable Housing?

Mt. Laurel I (1975)

- Local zoning laws that excluded low-income families (“exclusionary zoning”) violated the State Constitution
- All NJ municipalities must plan, zone for, and take affirmative actions to provide realistic opportunities for their “fair share” of the region’s need for affordable housing

What is Affordable Housing?

A dwelling affordable to a:

- **Moderate-Income Household**

(i.e., making 50-80 percent of regional income limit)

- **Low-Income Household**

(i.e., making less than 50 percent of regional income limit)

- **Very-Low Income Household**

(i.e., making less than 30 percent of regional income limit)



What are Very Low-, Low- and Moderate-Incomes in Morris Township?

	1 Person HH	2 Person HH	3 Person HH	4 Person HH
Median	\$90,591	\$103,533	\$116,475	\$129,416
Moderate (80%)	\$72,473	\$82,826	\$93,180	\$103,533
Low (50%)	\$45,296	\$51,766	\$58,237	\$64,708
Very Low (30%)	\$27,177	\$31,060	\$34,942	\$38,825

Source: 2024 Affordable Housing Regional Income Limits by Household Size, Prepared by Affordable Housing Professionals of New Jersey, April 12, 2024

How Much Do Residents in Affordable Units Pay?

	Range of Rents	Range of Sales Prices
1 -Bedroom	\$462-\$1,075	\$59,341-\$155,464
2 -Bedroom	\$542-\$1,277	\$73,758-\$189,106
3 -Bedroom	\$613-\$1,462	\$104,877-\$220,507

Source: Estimates from Piazza & Associates for Rent Prices at Morris Market Place and Meadows at Denville, as well as 2024 Pricing Limit Calculators.

Why does Morris Township Have to Provide Affordable Housing Part II?

Mt. Laurel II (1983)

- Reaffirmed Mt. Laurel I: Municipalities have constitutional obligation to provide a “realistic opportunities for the construction of their fair share of the present and prospective regional need of low- and moderate-income housing”
- Allowed “Builder’s Remedy” lawsuits



WHAT IS A BUILDER'S REMEDY LAWSUIT?

- ❑ Litigation against a municipality that has not addressed its Fair Share Housing obligation or engaged in exclusionary zoning practices
- ❑ Municipalities have no control over location or density which are typically much higher than otherwise permitted
- ❑ Extremely difficult and costly for municipalities to contest in court and/or negotiate with developers
- ❑ **Always in municipality's best interest to avoid a Builder's Remedy lawsuit**

What Was COAH?

1985: Fair Housing Act

(aka NJSA 52-27D-301 et al)

- ❑ Legislature codified the Mt. Laurel decisions
- ❑ Created the Council on Affordable Housing (COAH) which created rules and procedures for communities to follow to satisfy their constitutional obligation

What Do We Mean By COAH Rounds?



First Round
1987-1993



Second Round
1994-1999



Third Round
1999-2025



Fourth Round
2025-2035

↑
Includes 1999-2015 Gap Period

Red Bulls Settlement/ Ketch Road 100% Affordable Site

2022 Lawsuit

- FSHC vs. Township and Red Bulls and Property Owner
- Sought to increase obligation by approx. 200 affordable units (approx. 1,000 total additional units)

2023 Settlement

- 50 Unit 100% affordable multi-family development on County owned site
- Behind, and adjacent to, existing supportive and affordable housing on Ketch Road near the intersection of Hanover Avenue

STATUS: In Process

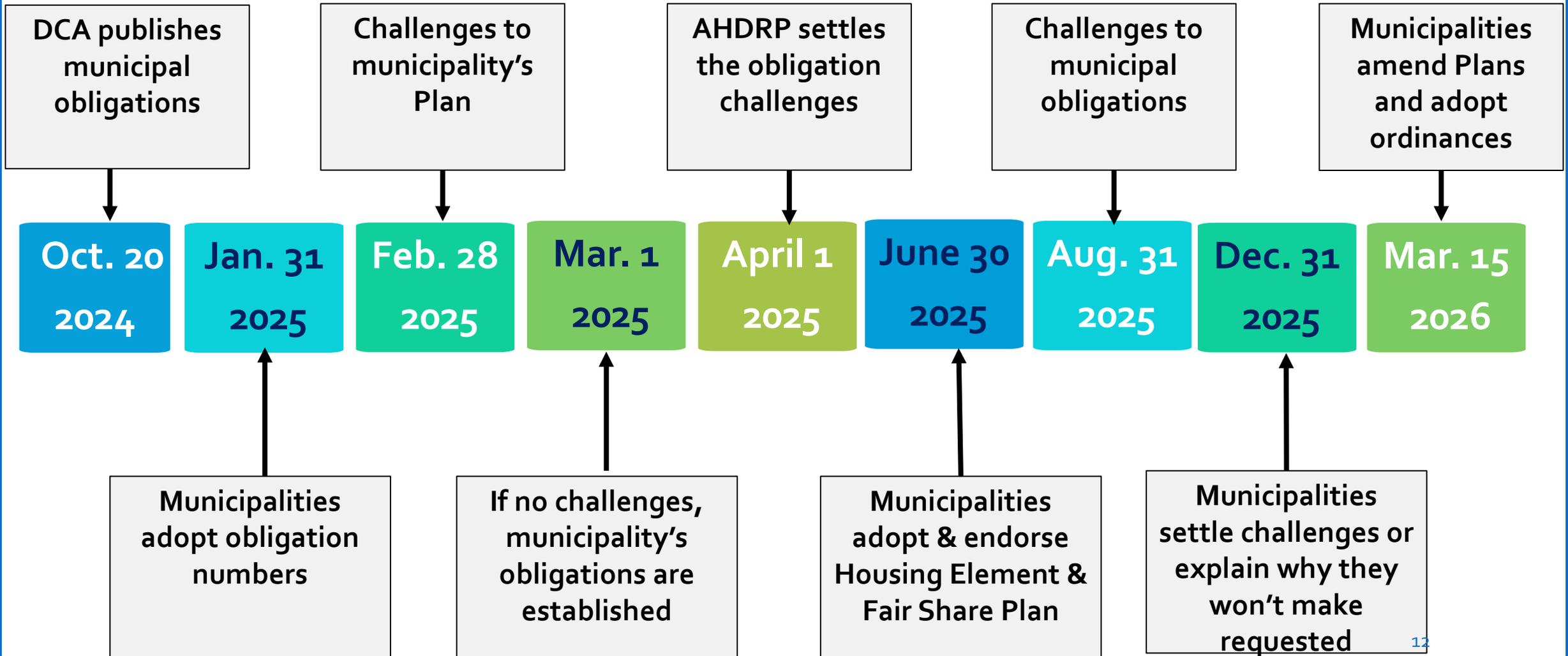
- County commitment to donate site and related commitments
- Pursuing LIHTC and related financing with prospective 100% affordable developer



Overview of A4/S50 New 4th Round Legislation

- ❑ Establishes a process within the judiciary, with a mediation program followed by county level housing judges
- ❑ Prohibits COAH from coming back
- ❑ Clarity on methodology
- ❑ Significant adjustment to bonus structure
- ❑ Revisions to affordability controls and updating UHAC/trust funds
- ❑ 40 years for rental / 30 years for-sale / 30 year extensions of controls
- ❑ Emphasis on family housing, redevelopment, and supportive housing

Key Municipal Compliance Deadlines



What is a Municipal Fair Share Obligation?

Present Need/Rehabilitation

Prior Round Obligations (1987-2025)

Prospective Round (2025-2035)

Project	Block/Lot	Tenancy	Units	Rental Bonuses	Total	Status
Prior Round Surplus Credits= 116 units						
Morris Mews	B: 1901/L: 3	Age- Restricted Rental Units	38 ¹		38	Complete
Moore Estate	B: 7902/L:1	Sales	64		64	Complete
James St. Commons	B: 6705/L: 2	Sales	14 ¹		14	Complete
100 Percent Affordable Projects= 30 units and 25 rental bonus credits						
MCHA- 19 Carlton	B: 10304/ L: 25	Sales	5		5	Complete
MCHA- 6 Monroe Street/227 MLK Ave	B: 10307/ L: 14	Rentals	6	6	12	Complete
Homeless Solutions- Jean Street Apartments	B: 901/ L: 4.01	Rentals	15	15	30	Complete
Homeless Solutions- 24 Walnut	B: 10306/ L: 7	Rentals	2	2	4	Complete
Homeless Solutions- 88 MLK Ave	B: 10314/ L: 1	Rentals	2	2	4	Complete
Inclusionary Development Projects= 154 units and 75 rental bonus credits						
Honeywell Site	B: 9101/ L: 6-7	Sales	24		24	Complete
Colgate	B: 10401/ L: 3	Rental	66	42	108	Complete
Sisters of Charity	Portion of B: 8801/ L: 1	Rental	33	33	66	Planned
95 Mt. Kemble Avenue	B: 5506/ L: 25 B: 5605/ L: 5-8	Rental	23		23	Planned
375-403 Mt. Kemble Avenue	B: 5101/ L: 4-7	Sales	7		7	Planned
Grant Homes a.k.a. 122 Mt. Kemble Avenue	B: 5604/ L: 1	Rental	1		1	Complete
Total			300	100	400	

**HAS
MORRIS
TOWNSHIP
FULFILLED
PREVIOUS ROUND
OBLIGATIONS?**

Yes!!!!!!

What Will Morris Township's Fourth Round Fair Share Obligation Be?



October 20, 2024- DCA Issues Municipal Fair Share Obligations



Municipalities must adopt obligation number by Governing Body Resolution by January 31, 2025



Just over 100 Days After DCA Report



DCA Report Obligations are non-binding. However, the numbers are based on an established methodology established in the law.

How Will DCA Calculate the Obligation?



It's complicated...



Income Capacity Factor



Nonresidential Valuation Factor



Developable Land Factor

Vacant Land Adjustment

Calculate Realistic Development Potential ("RDP")

- Downward Adjustment to Reflect Lack of Developable Land
- Identify "vacant and developable" lands
- Excludes environmentally sensitive lands (wetlands, steep slopes, etc.)
- Excludes sites that can accommodate less than 5 units
- *May* be able to exclude some historic properties or land
- *May* be able to exclude land for recreation or open space
- Calculate potential capacity for affordable housing
- *Minimum presumptive* density is 6 du/ac
- 20% set-aside

Unmet Need - Difference between RDP and obligation

Satisfying Fourth Round Obligation with a Vacant Land Adjustment

RDP

- Must satisfy with projects that create a realistic opportunity

Unmet
Need

- Most common: overlay inclusionary zoning
- *Identify sufficient parcels likely to redevelop during the current round... to address at least 25% of the...unmet need...and adopt realistic zoning...or demonstrate why the municipality is unable to do so.*

Addressing Obligation: Minimum/Maximum Types of Units

Minimum of 25% Must Be Rentals (half must be rentals for families)

Minimum of 50% Must Be for Families

Maximum of 30% Maximum for Senior Housing (increase from 25%)

Minimum of 13% Must Be for Very Low-Income Households
(i.e. 30% or Less of AMI)

Addressing Obligation: Compliance Strategies

Inclusionary Zoning

- Set Aside- 20%
- Rezoning/Redevelopment Plan
- Family/Senior Units/Special Needs
- Rental/Ownership

100% Percent Affordable

- Set Aside- 100%
- Rezoning/Redevelopment Plan
- Family/Senior/Special Needs
- Rental/Ownership
- Municipal contribution

Addressing Obligation: Compliance Strategies

Supportive/ Special Needs

- Typically Group Homes
- Unit of Credit is by the Bedroom
- Counted as Rental

Transitional Housing

- New for Fourth Round
- Temporary Housing that provides access to supportive services for very low-income households who may have recently been homeless
- Allows households to stay for a minimum of 6 months

Addressing Obligation: Compliance Strategies

Accessory Apartments

- Independent dwelling attached or detached to a primary dwelling
- Deed restricted
- Requires municipal funding per unit

Market to Affordable

- Purchase market rate unit and sell or rent to income qualified household
- Typically requires municipal financial contribution

Addressing Obligation: Compliance Strategies

Assisted Living

- Senior housing
- Medicaid beds count as affordable senior units
- Unit of credit is the bed

Extension of Affordability Controls

- Affordable units with deed restrictions which expire during the round
- Municipality often provides funding

Bonus Credits



Bonus credits up to 25 percent of municipal obligation/RDP



One type of bonus credit per unit



No rental bonus credits

Bonus Credits



+1 Bonus Credit

Special needs housing

Market to affordable conversion

100% affordable housing developments



+0.5 Bonus Credit

Partnership with non-profit

Sites within ½ mile of transit

Senior Units

Redevelopment of commercial sites

Excess very low-income units

Excess three bedroom units

Extensions of affordability controls

QUESTIONS?
