

# AFFORDABLE HOUSING IN NJ AND HOW IT AFFECTS MORRIS TOWNSHIP

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WEDNESDAY, NOVEMBER 28, 2018



# WHY DOES MORRIS HAVE TO PROVIDE AFFORDABLE HOUSING?

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## 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?

- An affordable unit means a sales price or rent for a dwelling that is within the means of:
  - 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?

	1 Person HH	2 Person HH	3 Person HH	4 Person HH
Median	\$66,755	\$76,291	\$85,828	\$95,364
Moderate (80%)	\$53,404	\$61,033	\$68,662	\$76,291
Low (50%)	\$33,377	\$38,146	\$42,914	\$47,682
Very Low (30%)	\$20,026	\$22,887	\$25,748	\$28,609

# HOW MUCH DO RESIDENTS IN AFFORDABLE UNITS PAY?

	Range of Rents	Range of Sales Prices
1 -Bedroom	\$536-\$1,073	\$63,308-\$145,362
2 -Bedroom	\$644-\$1,287	\$77,375-\$175,839
3 -Bedroom	\$744-\$1,488	\$90,503-\$204,285

# WHY DOES MORRIS HAVE TO PROVIDE AFFORDABLE HOUSING PART II?

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## 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
- Higher densities than otherwise permitted
- Municipalities have no control over location
- Extremely difficult and costly for municipalities to:
  - Contest in court
  - Negotiate with developers
- **Always in municipality's best interest to avoid a Builder's Remedy lawsuit**

# WHAT IS (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 IS (WAS) COAH?

- Per the FHA, COAH was required to:
  - Enact regulations that establish, and thereafter update, statewide affordable housing need;
  - Assign to each municipality an affordable housing obligation for its designated region; and
  - Identify the delivery techniques available to municipalities in addressing the assigned obligation

# WHAT ARE THE COAH ROUNDS?

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The First Round



**1987–1993**

The Second Round



**1994–1999**

1987-1999 Now Known as the "Prior Round"

# WHAT ARE AFFORDABLE HOUSING OBLIGATIONS?

- Municipalities had a Fair Share obligation for each of the first two rounds
- Obligation based on a calculation of statewide need that was then distributed to regions and then further distributed to individual municipalities
- Municipalities had an option under each of these rounds:
  - File a Housing Element and Fair Share Plan with COAH which addressed the Fair Share obligation; OR
  - Do nothing and risk a “Builder’s Remedy” lawsuit

# HOW DID MORRIS TOWNSHIP ADDRESS ITS PRIOR ROUND OBLIGATION OF 293 UNITS?

Project	Block/Lot	Tenancy	Units	Rental Bonuses	Total	Status
<b>Prior Cycle Credits= 100 units</b>						
Morris Mews	B: 1901/L: 3	Age- Restricted Rental Units	100 <sup>1</sup>		100	Complete
<b>100 Percent Affordable Projects= 21 units and 6 rental bonus credits</b>						
Dean A. Gallo Congregate Living	B: 1901/L: 2	Age-Restricted Rentals	19	6	25	Complete
MLK/Emmett Avenue	B: 10311/L: 21	Sales	2		2	Complete
<b>Inclusionary Development Projects= 200 units</b>						
Moore Estate	B: 7902/L:1	Sales	64 <sup>2</sup>		64	Complete
James St. Commons	B: 6705/L: 2	Sales	16 <sup>2</sup>		16	Complete
Woodcrest (Oaks)	B: 9902/L: 48	Sales	21		21	Complete
Cory Road (Millrace)	B: 10311/L: 1	Sales	4		4	Complete
Village at Convent	B: 8301/L: 1	Sales	25		25	Complete
Rose Arbor	B: 1501/L: 1	Sales	70		70	Complete
<b>Alternative Living/ Supportive and Special Needs Housing= 41 units and 41 rental bonus credits</b>						
ARC House (1)	Confidential	Rental	15	15	30	Complete
Homeless Solutions Transitional Housing	Confidential	Rental	11	11	22	Complete
Allegro Autism School Group Home	Confidential	Rental	5	5	10	Complete
Delta Community Support	Confidential	Rental	4	4	8	Complete
ARC House (2)	Confidential	Rental	6	6	12	Complete
<b>Total</b>			362	47	409 <sup>3</sup>	
<sup>3</sup> Surplus of 116 Units over 293 Unit Prior Round Obligation						

# WAS THERE A THIRD ROUND?

- The Third Round (post 1999)
  - First iteration (2004)
  - Second iteration (2008)
  - Third iteration (2014)

In 2015, the New Jersey Supreme Court found that the COAH administrative process had become non-functioning and returned primary jurisdiction over affordable housing matters to the trial courts.

Process overseen by Court appointed Special Master (i.e., Mediator) who presented findings to Court

File DJ  
Action



Negotia  
te



Fairness  
Hearing



Adopt  
HEFSP



Complian  
ce  
Hearing

File a DJ action with the Court to declare Housing Element and Fair Share Plan is constitutionally compliant to get protections against Builder's Remedy lawsuits

Negotiations Process to reach a Settlement Agreement between the Township, Fair Share Housing Center, and any Intervenors

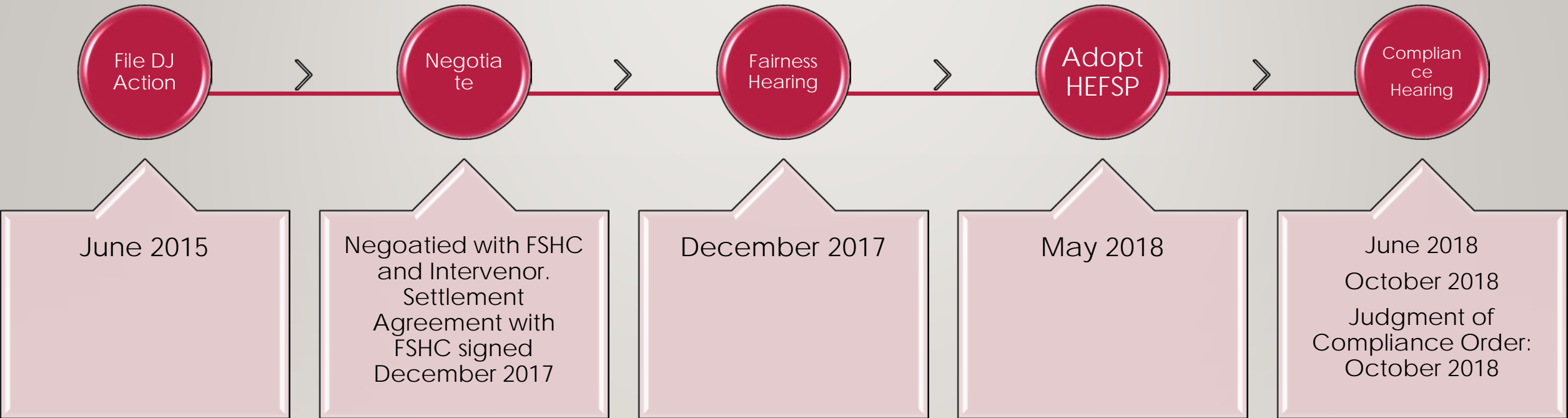
Special Master makes report to Judge and Judge orders updated Housing Element and Fair Share Plan

Housing Element and Fair Share Plan adopted by Planning Board and endorsed by Governing Body

Court issues Judgment of Compliance and Repose

## THE COURT PROCESS

Process overseen by Court appointed Special Master, Michael Bolan, PP, AICP



## THE COURT PROCESS FOR MORRIS TOWNSHIP

WHAT WOULD  
HAVE  
HAPPENED IF  
MORRIS DID  
NOT  
PARTICIPATE IN  
SETTLEMENT  
AGREEMENT  
NEGOTIATIONS?

- Court could take away the Township's immunity from Builder's Remedy lawsuits
- Negotiating to reach settlements with intervenors and other prospective developers helped insulate these properties from development plans with high densities far beyond those previously approved in Morris Township
- Township is now "immune" from any Builder's Remedy lawsuits so long as it continues to comply with its Housing Plan.



# WHAT ARE MUNICIPAL THIRD ROUND OBLIGATIONS?

- No Court approved Third Round numbers
  - Use Second Round Methodology which involves using Census data, population projections, household generation, income, employment, availability of land, etc.
- “Kinsey Numbers” offered by Fair Share Housing Center
- Econconsult Numbers offered by the Municipalities
- Reading Numbers offered by Court in some vicinages

# WHAT IS THE LENGTH OF THE THIRD ROUND?

- Third Round Duration
  - Gap Period (1999-2015)
  - Prospective Need (2015-2025)

# WHAT IS MORRIS' THIRD ROUND OBLIGATION?

- Fair Share Housing Center's Kinsey Numbers: 1,095 units
  - 30 percent discount: 767 units
- Vacant Land Adjustment: Realistic Development Potential (RDP): 400 units
- Unmet Need: 367 units (767-400= 367 units)

Project	Block/Lot	Tenancy	Units	Rental Bonuses	Total	Status
<b>Prior Round Surplus Credits= 116 units</b>						
Morris Mews	B: 1901/L: 3	Age- Restricted Rental Units	38'		38	Complete
Moore Estate	B: 7902/L:1	Sales	64		64	Complete
James St. Commons	B: 6705/L: 2	Sales	14'		14	Complete
<b>100 Percent Affordable Projects= 30 units and 25 rental bonus credits</b>						
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	2 units are complete. The Township will provide \$25,000 per unit for each of the additional 4 units.
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	The Township will provide \$25,000 per unit for both units
<b>Inclusionary Development Projects= 154 units and 75 rental bonus credits</b>						
Honeywell Site	B: 9101/ L: 6-7	Sales	24		24	Under Construction
Colgate	B: 10401/ L: 3	Rental	66	42	108	Approved
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	Planned
<b>Total</b>			<b>300</b>	<b>100</b>	<b>400</b>	

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# HOW WILL MORRIS ADDRESS ITS RDP OF 400 UNITS?

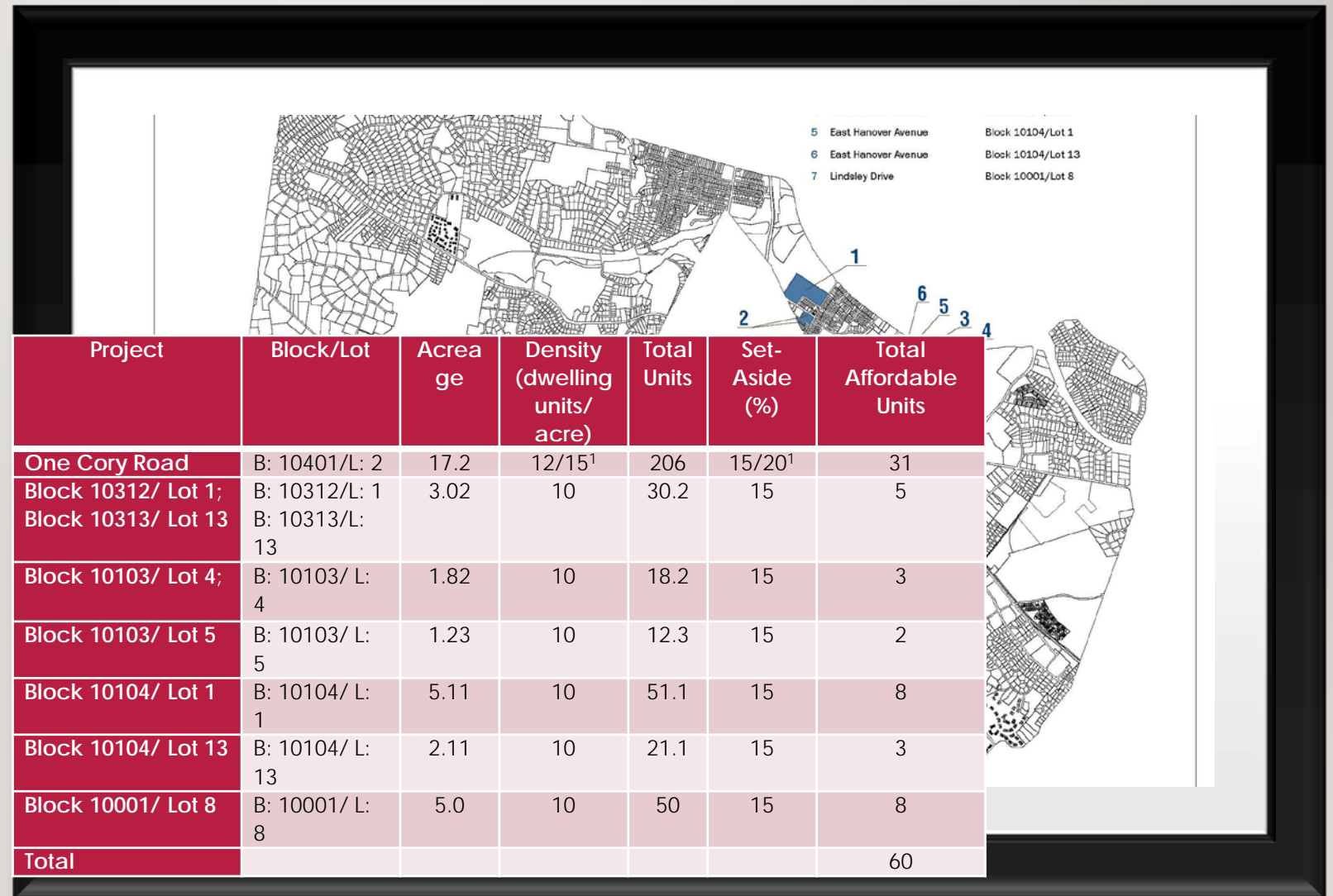


# HOW WILL MORRIS ADDRESS ITS UNMET NEED?

- Mandatory Set-Aside Ordinance
  - For any multi-family or single-family attached residential development providing a minimum of five (5) new units with density at or above six (6) units per acre
    - 20 percent if the affordable units will be for sale
    - 15 percent if the affordable units will be for rent
- Overlay Zones

# HOW WILL MORRIS ADDRESS ITS UNMET NEED?

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# WHAT HAPPENS NEXT?

- Plan Implementation
  - Enact new zoning, facilitate/approve new development in Housing Element and Fair Share Plan
  - Monitoring
- Protected from Builder's Remedy lawsuits until 2025
- Fourth Round begins July 2025

WILL MORRIS  
HAVE TO  
PROVIDE MORE  
AFFORDABLE  
UNITS AFTER  
2025?

Yes, the Courts have determined that the constitutional obligation to provide for the development of affordable housing is a continuing obligation. The "Fourth Round" will commence July 2025. Compliance with each round is what gives a municipality a period of immunity against builder's remedy lawsuits.



# QUESTIONS?

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