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# 2018 Affordable Housing Presentation

Borough of Peapack & Gladstone, New Jersey

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# What is a municipality's affordable housing requirement?

Every municipality in the State of New Jersey has a constitutional obligation to provide for its "fair share" of affordable housing units. This obligation however, specifically exempts "urban aid communities." (Jersey City, Newark, etc.)

This obligation is based on a calculation of statewide needs that is then distributed to regions, which is then...

Distributed to individual municipalities within the region.

Where does the constitutional obligation come from?

# Major NJ Supreme Court Decisions

1975:  
Mount  
Laurel I

- Every ***developing*** municipality has an affordable housing obligation

1983:  
Mount  
Laurel II

- ***Every*** municipality has an obligation
- Those in growth areas have a greater obligation than those in non-growth areas

1986:  
Mount  
Laurel III

- Affirms validity of Fair Housing Act (adopted in 1985)

2015:  
Mount  
Laurel IV

- COAH dysfunctional
- Courts take over certification process

# What is the Fair Housing Act (FHA): N.J.S.A.52:27D-301 et seq.

- Adopted in 1985 as a legislative response to the Supreme Court's Mount Laurel decisions.
- Designed to remove the courts from the affordable housing process.
- Created the Council on Affordable Housing (COAH) which was delegated the authority to determine municipal affordable housing obligations and create a process for implementing state affordable housing policies under the FHA.

# Before the Fair Housing Act

Municipal affordable housing obligations under Mount Laurel I and II were determined by lawsuits brought by developers to Court.

Resulted in "Builder Remedies" where developers were awarded density bonuses in return for building affordable housing units. A "Builder Remedy" results in a 20% set aside for affordable leaving the developer with 80% of the project as market rate.

# What's Wrong with Builder Remedy Suits?

- Developers get large increases in density in order to produce affordable housing at 80/20 ratio of market to affordable units.
  - ex: in order to produce 10 affordable units a builder is entitled to build a total of 50 units.
- No control over location. If a property owner or developer proposed a viable project, it was generally approved by the Court. Can lead to incompatible land uses.
  - ex: high density/tall multi-storied structures in low density neighborhoods.
  - ex: loss of open space and particularly farmland.
- Extremely difficult and costly for municipalities to contest in court.



# Where do the numbers come from?

The numbers are derived from U.S. Census data that is then projected into the future.

They take into consideration such factors as population growth (household generation), income, employment and the availability of land as related to a municipality's region.

Peapack & Gladstone is located in Region 3 which is Hunterdon/Middlesex and Somerset Counties.

So what is considered affordable? Depends on the region in which the municipality is located in.

# What Is Considered Affordable: 2017 Regional Income Limits-Region 3

<b>Income Level</b>	<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>
Median	\$73,780	\$84,320	\$94,860	\$105,400	\$113,832
Moderate	\$59,024	\$67,456	\$75,888	\$84,320	\$91,066
Low	\$36,890	\$42,160	\$47,430	\$52,700	\$56,916
Very-Low	\$22,134	\$25,296	\$28,458	\$31,620	\$34,150





# What time period is covered?

There have been two previous affordable housing rounds since the adoption of the Fair Housing Act in 1995 that covered the time between 1987 to 1999.

We are now in the Third Round which covers the time period between 1999 to 2025.



# How is the obligation described?

Under this Third Round there are three components to a municipality's affordable housing obligation:

- Prior Round Obligation 1987-1999
- Rehabilitation or Present Need
- Prospective Need (new units required between 1999-2025 which includes the GAP period)



# What is the GAP?

This is as a result of the NJ Supreme Court's decision, also known as Mount Laurel V, where the Court determined that municipalities had incurred an affordable housing obligation that was generated between 1999 and 2015 as a result of COAH's lack of action.



# Affordable Housing Obligation for the Third Round

- Under Mount Laurel IV, the Supreme Court created 13 vicinages (or courts) to hear petitions for certification of municipal housing plans.
- The Borough filed its declaratory judgement action with the court on July 8, 2015 indicating that it would seek certification of its housing element and fair share plan. This provided temporary immunity from “builder” remedy suits.
- During that time, the Borough engaged with the Court appointed “Special Master” and the Fair Share Housing Center (FSHC) to arrive at a negotiated settlement of the Borough’s affordable housing obligation.

# Who is the Court Special Master and FSHC?

The Court Special Master is someone appointed by the Court to assist the Court in reviewing housing plans.

FSHC is an affordable housing advocacy group that has been granted special status by the New Jersey Supreme Court to intervene in affordable housing matters.

Both provide important input and recommendations to the Court in evaluating whether to approve municipal affordable housing plans.

# Fair Share Housing Center

The Fair Share Housing Center is the primary affordable housing advocacy group in the state:

- They successfully challenged and had COAH's Third Round Growth share rules invalidated by the N.J. Supreme Court.
- Was granted special status to review all affordable housing plans submitted to the Court.
- Can challenge and demand a trial if they feel a municipal plan does not go far enough to further affordable housing.
- Holds major influence with the Courts in deciding affordable housing obligations.