



## Frequently-Asked Questions and Answers For Advocates of Affordable Housing May 2008

### **Step One: Getting Educated about the Issue, the Terms and the Players**

#### ***Q1. What is affordable housing?***

Affordable housing is rental, homeowner or group housing that is subsidized and income-restricted in some way. While housing for the poor has a long history, affordable housing goes back to the housing crisis in the 1930's Depression.

The Federal government and banks generally have a standard that no more than 30% of income should go to housing (rent or mortgage, property taxes, condo fee and home insurance) if one is to be able to afford all of life's necessities. The 57% (23,672) of low-income Mercer households paying over 30% are considered "cost-burdened" and the 29% (12,044) of low-income Mercer households paying more than 50% are "severely cost-burdened".

[View the Mercer Towns Income and Housing Prices chart](#)

#### ***Q2. Who is eligible for affordable housing in NJ?***

Eligibility is determined by COAH. The Median Income for a family of three (average family size in Mercer County) is \$76,109.

Below \$60,888	- Moderate Income
Below \$38,055	- Low Income
Below \$22,833	- Very Low Income

Very little of the affordable housing built in Mercer County is for Very Low Income families. Most of it is for Low and Moderate Income families.

#### ***Q3. Do municipalities have an obligation to provide opportunities for affordable housing?***

Yes. Under the Mount Laurel decision (1975), New Jersey municipalities have a constitutional obligation to provide their "fair share" of their region's present and future need for affordable housing.

This decision was followed by eight years of litigation brought by public interest plaintiffs and developers who challenged towns' exclusionary zoning and sought to build multi-family housing, including affordable housing. In Mount Laurel II (1983), the court encouraged the legislature to provide a structure for compliance with Mount Laurel. In 1985, the NJ Fair Housing Act established COAH (Council on Affordable Housing).

#### ***Q4. What do I need to know about COAH?***

Municipalities' compliance with the NJ Fair Housing Act and the rules adopted by COAH is voluntary. Of 566 municipalities in New Jersey, 299 are under COAH's jurisdiction, while another 68 are under Superior Court jurisdiction. Twelve Mercer county towns (all except Trenton) are under COAH's jurisdiction and will need to reapply under the new Third Round rules.

COAH issues rules for how to calculate the municipal "fair share" of the region's affordable housing needs and establishes compliance mechanisms. For example, COAH publishes the eligibility income scale for affordable housing. Rules have been issued for 3 rounds. Among the new rules are the following:

- Municipalities must provide 1 affordable unit for every 4 market rate units built.
- Municipalities must provide 1 affordable unit for every 16 jobs based on non-residential development built.
- A maximum of 25% of affordable housing can be restricted to seniors.
- A developer who opts not to build on-site affordable housing can be required by a municipality to pay an "in lieu" fee of approximately \$161,000 per required affordable unit.
- Municipalities must offer density increases and other incentives to developers who build affordable housing, such as additional units at market rate.

COAH adopted revised Third Round rules on May 6, 2008, which go into effect on June 2nd. COAH has proposed amendments to these rules, which are expected to be approved in October, 2008. Under the proposed amendments, all Mercer County towns must petition COAH with new housing and fair share plans by December 31, 2008, instead of the current deadline, September 30, 2008.

#### ***Q5. Why do municipalities choose to comply?***

Municipalities comply to avoid the risk of a builder's remedy. A builder's remedy is court-ordered inclusionary zoning. It is ordered when a builder-plaintiff proves that a municipality

has not met its housing obligations and offers to provide a substantial amount of affordable housing on a site that is acceptable from environmental and planning perspectives.

***Q6. Have the COAH rules been effective in getting affordable housing built?***

That depends on how you look at it. More than 62,000 affordable units have been built or rehabilitated throughout NJ since 1980. But in the same period of time about 775,000 market rate units have been built. That is a ratio of one affordable unit to every 12.5 market rate units, a far cry from 1 to 4.

***Q7. What is a municipal trust fund?***

COAH allows municipalities to collect development fees on residential and non-residential housing that does not create affordable housing directly. The collected funds must then be used for affordable housing.

Suburban Mercer municipalities have collected more than \$38 million in housing. Of this amount, almost \$15 million remains unspent. Under the new developer's fees to be held in municipal trust funds and used for affordable

COAH rules there is an incentive to towns to promptly spend the money they collect from developer's fees. There will also be an increase in developer's fees under the new rules. All 12 suburban Mercer County municipalities have a municipal trust fund.

[View the AFFORDABLE HOUSING TRUST FUND MONITORING chart](#)

***Q8. How is my town's Fair Share of affordable housing determined?***

The municipal Fair Share housing obligation has three components under COAH Third Round rules: Rehabilitation Share, Net Prior Rounds Obligation and Growth Share.

- The Rehabilitation Share estimates the number of substandard units occupied by low and moderate income households as of the 2000 census.
- The Net Prior Rounds Obligation is the number of affordable units still to be built to satisfy the first two rounds (1987-1999). If the municipality built more than was required, this appears as a credit.
- The Growth Share is based on the present and prospective (to 2018) residential and non-residential development according to an algorithm provided by COAH. As detailed above, the Growth Share is 20% of the residential growth and one unit for every 16 jobs based on non-residential growth. 25% of the Growth Share must be rental housing.

[View the Mercer County, New Jersey Municipalities' Fair Share Housing Obligations chart](#)

[View the Mercer County Total Housing Obligation by Municipality 2004-2018 Total Units of Low / Moderate Units - 11,907 chart](#)

[View the Mercer County, New Jersey Municipalities' Mount Laurel-COAH New Construction Obligation Compliance - 2008 \(based on COAH Third Round Rules adopted and proposed, May 6, 2008\) chart](#)

## **Step Two - Engaging My Municipality**

### ***Q9: How do I speak to my municipality about affordable housing?***

We want to open up a conversation with municipalities, the tone of which will depend on what the municipalities are doing.

1) If they are including the very-low income in their affordable housing plan then we express our support and move forward together.

2) If they are moving forward with an affordable housing plan, but ignoring the needs of very low-income people, then we have the responsibility to bring that up.

3) If they are not moving forward at all, then we goad them into action and watch over them till we are satisfied.

***Q10: To whom should I speak to learn what my municipality is doing?*** If your town has an affordable housing officer, that's the first person to speak with. If not, speak to the town planner.

[View Mercer County Towns and Contacts](#)

### ***Q11. How can I use the fact of growth share as an advocacy tool?***

All Mercer towns have a growth share ordinance. Since their plan includes growth share, you can argue that a portion of the housing growth should meet the needs of people with very low incomes. When new growth comes into town, we need to take note of it and press the "fair share" concept of affordable housing for all.

### ***Q12: How do I get the message across to my municipal officials that they should provide affordable housing in my town?***

**Diversity benefits all** - Tell them that a mix of housing options at various prices enables families to set roots in a community, to stay in the community as their housing needs change and to welcome their adult children back to town when they are ready to start out on their own.

**Strengthens the volunteer pool** - Volunteer firefighters, sports coaches, scout leaders and municipal volunteers come from all walks of life. Restricting who can live in a town limits the pool of people who can contribute to the social fabric of a community.

**Businesses need housing for employees** - Talk to businesses in your town and discuss with them the economic benefits of having their employees live close to work. It is in the best interest of the employer to have workers live nearby and not be burdened by long commutes and travel related costs. Encourage businesses to attend town meetings and advocate for affordable housing -- not only is it good for existing employers, it also increases the town's ability to attract new businesses.

**Avoid costly lawsuits** - Emphasize that affordable housing is a constitutional obligation and that by failing to provide affordable housing opportunities for low and moderate income persons and families the town is opening itself up to a "builder's remedy" lawsuit. The cost of NOT providing affordable housing – litigation, loss of local business employees – is much higher.

***Q13: Won't there be adverse environmental impacts with so much housing?***

No, actually the reverse is true. Through methods such as rehabilitation of existing housing stock, accessory apartments, and infill development, environmental standards can be upheld. In addition, by locating affordable housing near jobs, long commutes that produce greenhouse gasses that contribute to global warming can be reduced.

***Q14. How do I confront the objections that are made to affordable housing?***

TALKING POINTS

A. To rebut the complaint that "we can't afford it".

By law, municipalities don't have to pay for affordable housing. That means your taxes won't go up to pay for housing production.

Developers don't pay for all of the cost differential between affordable and market-rate housing either. The Low Income Housing Tax Credit, the Balanced Housing Program, municipal incentives like higher density market-rate housing and several other programs assist in financing construction while Section 8, SRAP and other programs subsidize rentals. In fact, some affordable housing developers are for-profit enterprises.

B. To show the danger of going it alone (without COAH protection)

West Windsor endured 10 years of litigation at a cost of \$1.3 million and got pure residential development (15% affordable) instead of the mixed use development (20% affordable) that they had zoned for. A COAH application costs about \$20,000.

C. To show that 1 unit for 16 new jobs in new buildings is reasonable  
COAH requires one affordable unit for every 16 new jobs created by non-residential development. Sounds like a lot. But do you believe that out of 16 new jobs in new buildings only one will be low/moderate income? In a medical clinic, for instance, more than half the full-time employees are low/moderate income. One for 16 is not too many. The whole point of the Mt. Laurel decision was to enable people who work in a community to live there too.

D. To rebut the argument that there is enough affordable housing already  
Just taking the 28,511 suburban Mercer families whose income is between \$25,000 and \$60,000 who are eligible for affordable housing, there are 15 families for every family rental unit. Waiting lists are two-four years long.

E. To show the need for Very Low Income housing  
One fifth of Mercer households, like truck drivers and health aides, are considered Very Low Income. That is, they live on less than \$25,000 a year according to the 2000 Census and they make up a third of the families eligible for affordable housing.. But much of the existing family affordable housing rentals are not available to them because their income is too low. (Low Income rentals are for families making between \$22,833 and \$38,055.)

F. To show that rents are too high  
More than half of Mercer County renters can't afford the rent they are paying. If they pay 30% of their income for rent, as most banks recommend, they need \$44,800 a year to pay the \$1120 Fair Market Rent for a two bedroom apartment in Mercer County.<sup>1</sup> Almost a third of Mercer County renters pay more than half their income for rent.

G. To show that affordable housing doesn't overburden schools and infrastructure.  
Studies show that renter family size (including school-aged children) is 15% smaller than owner family size.

Higher density housing provides greater economies of scale than single home development does. This means that the infrastructure for utilities, trunk lines and waste treatment plants will cost less. This is borne out by studies by the U.S. Office of Technology Assessment which found that it costs \$10,000 more per unit to provide infrastructure to a lower density development than to a more compact neighborhood.

***Q15. How do I advocate for Very Low Income housing?***

This is housing for households with an income less than \$22,388 a year; they are one third of all those eligible for affordable housing. Because the process for creating VLI housing involves grants, tax credits, subsidies and considerable planning time, only a mission-driven non-profit

developer is likely to undertake this task. We suggest that you work with one of the following area non-profits.

[View Non-Profit Developers in Mercer County](#)

### **Step Three- Implementing Affordable Housing Opportunities**

#### ***Q16: How can my town satisfy its Fair Share obligation?***

**To satisfy new construction housing obligations, COAH rules offer a variety of compliance mechanisms.**

Over the past two decades, the most significant mechanism has been private sector inclusionary development, where a site is zoned for residential development with a requirement that a specific percentage of the units developed, often 20%, is set-aside for low and moderate income households.

Other compliance mechanisms include municipally-sponsored construction, usually in partnership with non-profit or for-profit developers, group homes and other congregate living arrangements, assisted living residences, accessory apartments, and the purchase of existing units for subsidized sale or rent to income eligible households.

Because we all should be concerned with “Smart Growth,” we recommend that you ask your town to consider the following alternatives:

- ***Buy-down / write down*** – A town can buy properties that come up for sale and sell them to low/moderate income families at a lower price. In this time of foreclosures, there is an opportunity – both in terms of finding property and in getting subsidies to do so.
- ***Conversion of a former commercial site to residential housing.***
- ***Creation of accessory apartments.***
  - For example, the Brick Township program will contribute up to \$15,000 toward the creation of a new, self-contained residential dwelling unit within or attached to an existing home. The unit is restricted for 10 years for qualified low or moderate-income households. After 10 years the contribution is forgiven provided the unit is kept affordable for that time period.
- ***Infill development.***
  - In **suburban areas**, infill usually refers to the insertion of additional housing units into an already approved subdivision or neighborhood. These can be in the form of additional units built on the same lot, by dividing existing homes into multiple units, or

by creating new residential lots by further subdivision or lot line adjustments. Units may also be created by building on lots that were previously vacant.

- In **urban areas**, infill means building homes, businesses and public facilities on unused and underutilized lands within existing urban areas. Infill development keeps resources where people already live and allows rebuilding to occur.

The main advantage of infill housing is that it does not require the subdivision of greenfields. Another advantage is that existing infrastructure is usually adequate to provide all utility and service needs.

**Q17. Rethinking Zoning: What are some questions teams should be asking their municipalities?**

- How is our remaining undeveloped land currently zoned? Couldn't it be rezoned for multi-family affordable housing?
- Are we doing any redevelopment in our community? Why can't it include our affordable housing obligation?
- Shouldn't we offer builders extra incentives for higher density housing, with required set-asides for affordable housing?
- Are we planning our future growth by using the smart principles of center-based development, which will preserve open space, enhance transit, produce economic engines and affordable housing? If not, why not?
- Are we remembering that our municipality's power of zoning can only be used to enhance the general welfare, which means the welfare of all?

**Q18. What are some other options for my town in getting more affordable housing?**

- Towns can solicit land donations from colleges, businesses and large land owners to set aside for affordable housing.
- Non-profit organizations can apply for federal and state subsidies for affordable housing.
- Towns or non-profits can establish community land trusts which buy up land, develop housing and retain the land so that the cost of housing is reduced.

**Sources:**

NJ COAH Third Round rules at [www.nj.gov/dca/coah](http://www.nj.gov/dca/coah).

Trenton *Times* (4/20/08) "Housing Push Alarms Towns: COAH Wants 115,000 More Units" by Joyce Persico.

US Census (2000 and 2006)

---

<sup>i</sup> National Low Income Housing Coalition, Out of Reach 2008. This is based on the Fair Market Rent for the county as determined by HUD in the fall of 2007.