

AFFORDABLE HOUSING

MONROE TOWNSHIP
MIDDLESEX COUNTY, NEW JERSEY

October 3, 2018

Township of Mount Laurel

New Jersey Supreme Court Decision

1975

- New Jersey Constitution requires laws to be for the general welfare
- and equal protection of laws to all.
- Unconstitutional that zoning exclude low- and moderate-income citizens.

New Jersey Supreme Court Decision

- Mount Laurel II - 1984 (Eight Years Later)
 - Court Permits Builders' Remedy Suits
 - Builders permitted to change zoning if they can demonstrate that a municipality's zoning ordinance fails to provide opportunities for low/moderate income citizens.
 - Zoning fails to provide a realistic opportunity to address the municipality's "fair share" obligation.
 - Builders are permitted to develop housing at an increased density when they provide affordable dwelling units with market-rate dwelling units

Fair Housing Act – 1985

- Legislative Response to Supreme Court decisions
- Created Council on Affordable Housing (COAH)
 - Created methodology for determining “fair share” affordable housing obligation of the State, each housing region and each municipality
 - Established rules by which a municipality’s zone plan could be approved when it fulfills its Constitutional (Mount Laurel) obligation
 - Created Rounds 1 and 2 Rules (1985-1999)
 - Regional Contribution Agreements (RCA’s) were allowed.

Round 3 Rules

- From 1999 to 2015, COAH failed to establish affordable housing quotas and guidelines for municipalities, so the Supreme Court ordered the state court to take over that responsibility.
 - First 2 Versions of the rules were rejected by Courts
 - 3rd Version: tie vote, not adopted
- **March 2015:** Supreme Court requires Trial Courts to:
 - Determine the “fair share” for each municipality for 1999 through 2025
 - Approve compliance plans
 - Encourage resolution through mediation

What is Affordable Housing /Workforce Housing Income Limits

- Median Income (2017): Housing Region/Monroe - \$105,400
1. Moderate-Income: 50-80% of median (4 people)
 - \$52,700 to \$84,320
 2. Low-Income: 30-50% of median
 - \$31,620 to \$52,700
 3. Very Low-Income: under 30% of median (13% of units)
 - Up to \$31,620

Where Do New Jersey Communities Stand Now?

- More than 220 Municipalities, including Monroe Township, settled and are protected from a builder's remedy lawsuit
- Less than 100 Municipalities are still negotiating or have been assigned obligations by the courts
- Many communities are exempt because they already have significant affordable housing

Fair Share Obligation for Monroe

Fair Share Housing Coalition (FSHC) hired Dr. Kinsey to calculate “fair share” housing obligations for all municipalities in New Jersey as part of 2015 Court Case.

Fair Share Obligation for Monroe

Dr. Kinsey (Fair Share Housing Coalition) calculated for Monroe's affordable obligation 2,323 dwelling units zoned for period through 2025.

2,323 affordable
+ 9,292 market rate (4 to 1 court ratio)
11,615 Total Units zoned

Fair Share Obligation for Monroe

Monroe Township **vigorously** challenged Dr. Kinsey's calculations in Court resulting in a settlement of **850 Affordable Units**.

1999-2025 Obligation = 1,133 Units

Rental Bonus Credits (2:1) = 283 Units (Maximum allowed)

Rental Set Aside = 20% (Typical Rental Set Aside is 15%; Higher Set Aside reduces Market-Rate and Total Units)

Reduced Obligation = 850 Units

Affordable Age-Restricted = 283 Units (Maximum allowed)

Affordable Family = 567 Units

Market-Rate = 3,529 Units

Total = 4,379 Units

Fair Share Obligation for Monroe

11,615 units Fair Share Housing Coalition Calculation

4,379 units Township Vigorously Fought Court Settlement Agreement

7,236 Fewer Units from contested litigation and settlement

Actions Required by Court to Comply with Settlement

- Planning Board adopted Housing Element and Fair Share Plan
- Township Council adopted affordable housing ordinances to create realistic opportunity for providing affordable housing units
- Monroe will be building 37 units of Veterans Housing.

Consequences from Refusal to Adopt Ordinances

Court will treat Township harshly

Including:

- Strip immunity to building remedy
- Apply Dr. Kinsey obligation
- Greater density
- Increased total units

Non Settlement Court Decisions

South Brunswick Decision (No settlement)

1533 affordable units. Up to 7,665 Units

West Windsor Decision (No settlement)

1500 affordable units. Up to 7,500 Units

Affordable Housing

- It takes a long time for affordable housing developments to be built because the market cannot absorb all of them at once
- The settlement only puts in place the zoning to meet the affordable housing Court Settlement.
- **It does not require building.**

Previous Affordable Housing Rounds

- Stratford: Approved in the 1990's as part of previous round. Still being constructed over 20 years later.
- Monroe Manor: Approved in the 1990's. Just completed construction this year.

Questions?