

Interested In Affordable Housing? Now Is The Time To Put Municipalities On Notice.

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On March 10, 2015, the ***New Jersey Supreme Court*** (“Court”) placed affordable housing compliance back in the hands of the trial courts due to the ineffectiveness and inaction of the ***Council on Affordable Housing (“COAH”)***. Following a 90-day stay of its decision, the Court afforded municipalities previously under COAH’s jurisdiction a 30-day period to file a declaratory action with the trial court. Thus, commencing on June 8, 2015 and continuing through July 8, 2015, municipalities previously under COAH’s jurisdiction will look to have their affordable plans processed by the court and will likely seek temporary immunity from builder’s remedy lawsuits while their plans are being processed.

Significantly, the Court required municipalities to provide notice and an opportunity to be heard to Fair Share Housing Center and all “interested parties” in connection with their declaratory actions. “Interested parties” presumptively includes, at a minimum, all parties to the Supreme Court matter. While not expressly stated in the opinion, “interested parties” should also necessarily include any developer who is interested in constructing affordable housing in a particular municipality.

If you are a developer and have an interest in developing affordable housing in a specific municipality, now is the time to let that municipality know that you are an “interested party” and that you would like to be included on the service list in connection with the municipality’s declaratory action. That letter should be addressed to the municipal clerk and should copy the municipality’s attorney and COAH attorney, if applicable. It should specifically reference the Court’s recent decision and the rights afforded to you by that decision.

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