

The Hopewell Township Affordable Housing Challenge

November 6, 2008



The Current COAH Challenge

- Through recent changes to both regulations and legislation, the state of New Jersey has significantly increased affordable housing obligations for towns like Hopewell Township
- Current obligations driven by:
 - Court decisions tracing back to the original 1975 Mt. Laurel decision
 - An increase in the state-wide target from 65,000 to 115,000
 - A retroactive compliance requirement starting in 2004
- July '08 Fair Housing Act amendments:
 - Eliminate Regional Contribution Agreements
 - Slash development impact fees
 - Enable COAH to seize control of municipal affordable housing funds in towns that do not comply
- COAH Round III Rules (revised multiple times) require compliance reviews every two years, 2008 – 2018
- Failure to comply exposes Hopewell Township to risks

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1783
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JUNE 20, 2008

SUMMARY

Synopsis: Revises laws concerning the provision of affordable housing.

Type of Impact: Indeterminate local revenue loss. Indeterminate increase in State revenue. Establishes new Urban Housing Assistance Fund.

Agencies Affected: Department of Community Affairs, Council on Affordable Housing municipalities.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Revenue	Indeterminate increase in State revenue – See Comments Below		
Local Revenue	Indeterminate impact on local revenue – See Comments Below		

- The Office of Legislative Services (OLS) estimates an indeterminate increase in State revenue as a result of this new Statewide fee on non-residential construction, and further estimates an indeterminate effect on local revenue. No specific estimate is feasible due to the unpredictable nature of the basis for the fee, i.e., the extent and location of new construction subject to the fee.
- The principal fiscal impact of this substitute bill is the imposition of a Statewide fee on all new non-residential construction to raise revenue for the construction and rehabilitation of affordable housing. The fee is imposed at a rate of 2.5 percent of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot or lots, and 2.5 percent of the increase in the equalized assessed value of the additions to existing structures to be used for non-residential purposes.
- With respect to municipal revenue, the OLS notes that the substitute bill's pre-emption of local ordinances imposing fees on non-residential construction at higher rates than 2.5 percent could, for some municipalities, result in less revenue than they would otherwise collect if this bill were not enacted. The OLS notes that 274 municipalities are certified to collect development fees for deposit in affordable housing trust funds.

Legislature's
 "Fiscal Estimate"
 on Reduced
 Development
 Impact Fees

Local revenue
 "indeterminate"

State revenue
 "indeterminate"

"Pre-emption of local
 ordinances...could
 result in less revenue"

Hurdles

- 115,000 unit target double previous
- High % of all NJ housing
- Major strain on municipalities
 - Planning
 - Acquisition
 - Infrastructure
 - Financing
 - Construction
 - Fiscal Impacts
 - Administration

The Basic Math

- Council on Affordable Housing (COAH) projects growth from residential and non-residential development
- Applies projection to municipalities under its jurisdiction
- Calculates affordable housing obligation for each municipality, using residential and non-residential formulas
- Requires 10-year (Round III) compliance plan, 2008—2018, reviewed every two years
- No funding provided to municipalities by COAH or other state agencies

115,000 new units x \$150,000/unit = \$17.25 billion

Shifting Round III COAH Requirements for Hopewell Township

	Original Round III Rules—December 2004	Round III Rules Adopted June 2008	Round III Rules Effective September 2008
Planning Horizon	2014	2018	2018
Projected Total Housing Units, 2004-2018	515	1,993	1,474
Residential growth share	1 AH/9Mkt	1 AH/5Mkt	1 AH/5Mkt
Projected Commercial Growth, 2004-2018	<ul style="list-style-type: none"> • 3,118 jobs • 1,039 MM sq ft 	<ul style="list-style-type: none"> • 4,730 jobs • 1,689 MM sq ft 	<ul style="list-style-type: none"> • 4,064 jobs • 1,451 MM sq ft
Non-residential growth share	1 AH/25 jobs	1 AH/16 jobs	1 AH/16 jobs
AH Unit Obligation from:			
Residential	57	399	295
Non-residential	<u>125</u>	<u>296</u>	<u>254</u>
Total AH Obligation	182	695	549*
Financing Options Available to Municipalities	2% nonresidential, 1% residential, payment in lieu	3% nonresidential, 1.5 residential, payment in lieu	2.5% nonresidential, all other development impact fees prohibited
Township Cost of AH Units	None	None	\$83MM

* Proposed hospital exclusion would reduce non-residential obligation by 133 units, resulting in 419 AH total unit obligation⁶

Hopewell Township Estimated Costs to Meet Round III Affordable Housing Obligation

DIRECT COSTS				
Estimated Construction Costs Based Upon COAH Cost/Unit				\$63,295,987
Actual Construction Costs (Prevailing Rate)				
Land Acquisition		\$ 162,585	\$8,450,355	
Building Construction	900	\$ 115	\$43,035,300	
Site Work		40,000	\$16,632,000	
Subtotal, Construction Costs			<u>\$68,117,655</u>	
Site overhead (personnel, maintenance, utilities, trailers, casual labor, insurance, dumpsters, inspection fees, etc.)		15%	\$10,217,648	
Design and Permitting		7%	\$4,768,236	
Total			<u>\$83,103,540</u>	
Total Revenue			\$21,213,390	

PROPOSED

TABLE 3. Hopewell Township Fair Share Obligation, Summary of Requirements and Planned Round Three Compliance			
		Requirement	Township Provision
Total Fair Share Obligation		1,008	--
Rounds One and Two		520	535
Rehabilitation Share		5	5
Round Three (Growth Share) Requirement		483	
Excess		--	15
Not Counted in Prior Rounds, Eligible in Round Three		--	<u>49</u>
Subtotal, Excess Applicable to Round Three Requirements		--	64
Net New Round Three Requirement After Excess from Prior Rounds		419	--
1.	Scattered Site Projects (Community Options, HomeFront, Wrick Avenue, Minnietown Lane)	--	15
2.	Accessory Apartments	--	10
3.	Block 78, Lot 10.04 (Project Freedom)	--	70
4.	Block 33, Lot 1.02 (Pennytown)	--	70
5.	Block 91, Lot 3.96 (Capital Health Systems)*	--	70
6.	Block 93, Lot 5 (Burroughs tract)	--	7
7.	Block 88, Lot 5.02 (Weidel tract)	--	180
8.	Residential development (ongoing, inclusionary zoning distributed throughout Hopewell Township)	--	<u>50</u>
Total Units		--	472
Excess for Round Three Requirement		--	53

Compliance Phasing Plan

Table 4. Hopewell Township Implementation Phasing Plan

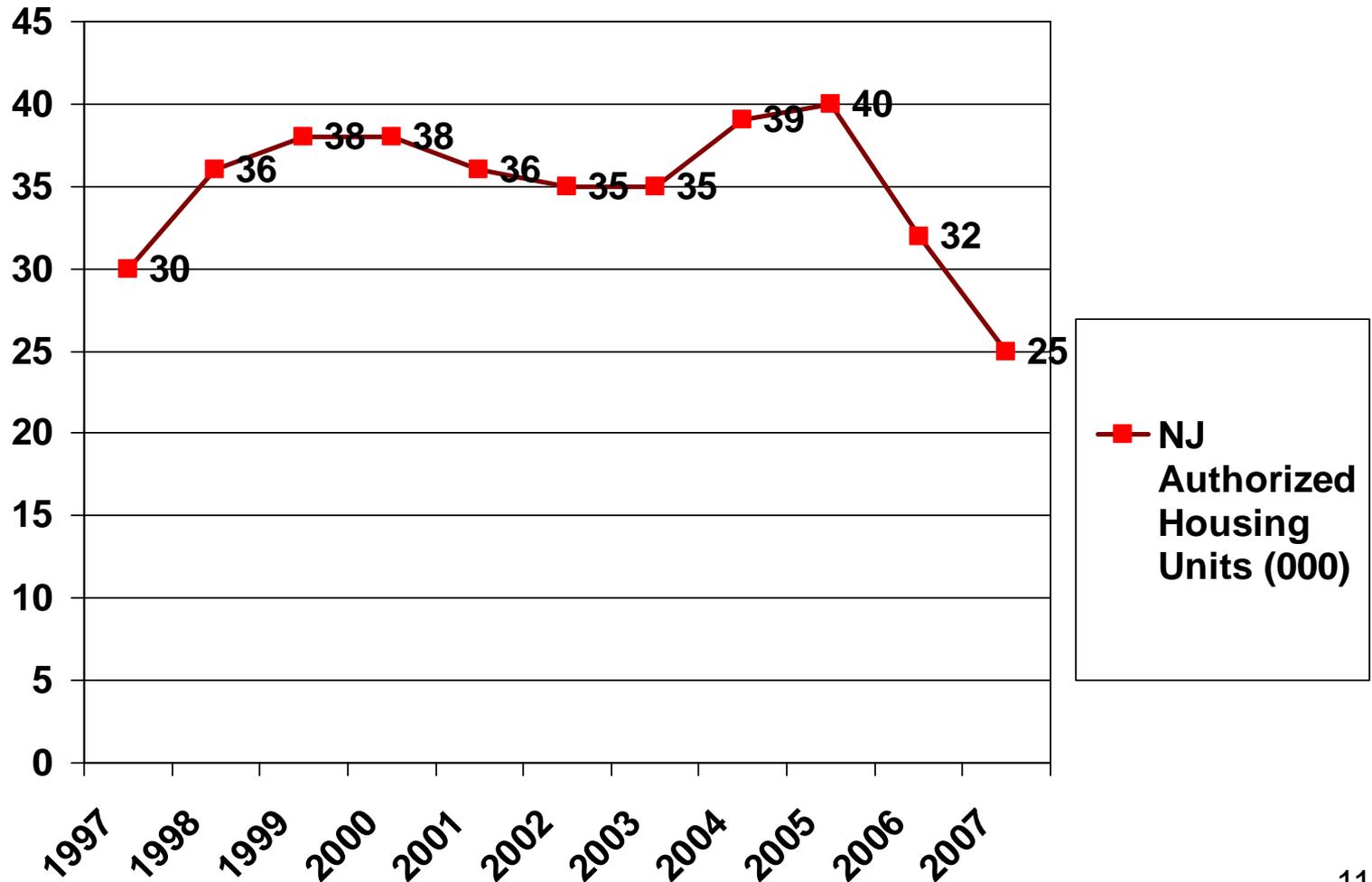
2009-2010	2011-2012	2013-2014	2015-2016	2017-2018
<ul style="list-style-type: none"> • Municipal property acquisition • Project site planning and permitting • Provider agreements • Non-municipal financing secured • 64 units for excess units from prior round obligation • 15 units at scattered sites • 2 units for accessory apartments • 9 units for Inclusionary residential developments • 70 units for Project Freedom • Compliance assessed 				
	<ul style="list-style-type: none"> • Project site planning and permitting • Provider agreements • Additional non-municipal financing secured • 2 units for accessory apartments • 6 units for inclusionary residential developments • 70 units at Pennytown • Master Plan reviewed • Housing Plan reviewed • Compliance assessed • CHS COs issued 			
		<ul style="list-style-type: none"> • Project site planning and permitting • Provider agreements • Additional non-municipal financing secured • 26 units for CHS • 2 units for accessory apartments • 12 units for inclusionary residential development • 40 units for Weidel tract • Compliance assessed 		
			<ul style="list-style-type: none"> • 44 units for CHS • 7 units for Burroughs tract • 2 units for accessory apartments • 13 units for Inclusionary residential development • 90 units for Weidel tract • Compliance assessed 	
				<ul style="list-style-type: none"> • 50 units for Weidel tract • 2 units for accessory apartments • 10 units for inclusionary residential development • Compliance assessed • Master Plan reviewed • Housing Plan reviewed
Cumulative Round III Units	160	238	318	474
				536

Consequences of Failure to Comply

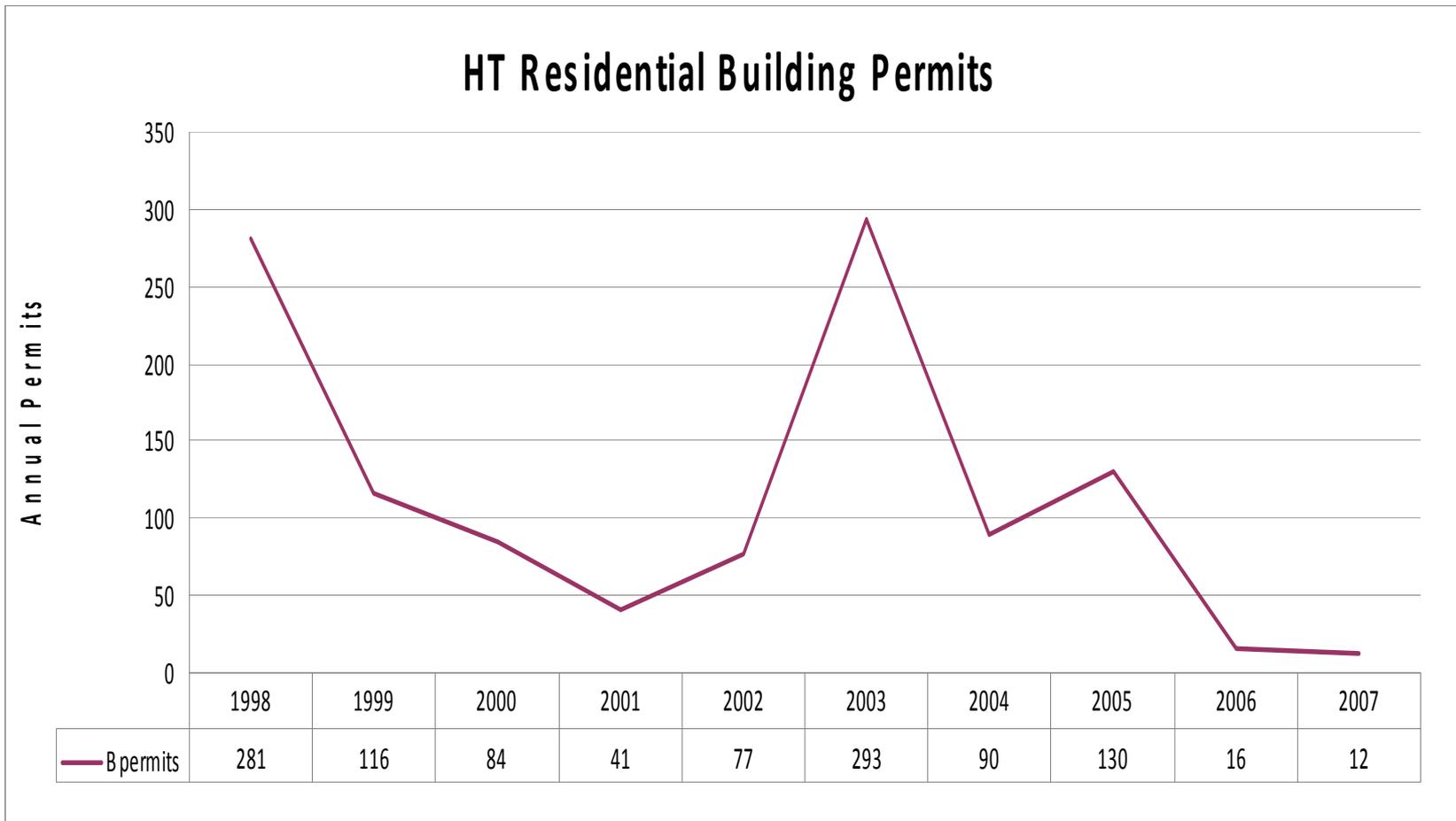
- Invites “builders remedy” lawsuits
 - Overrides local planning and zoning
 - Multiplies (5x) number of new housing units
- Control of Township affordable housing funds transfers to state
 - 2008 amendments to Fair Housing Act
 - Implementing memo to Township October 20

NJ Residential Building In Decline, Reflecting National Trend

(Source: NJ Department of Community Affairs, Building Permits)



Residential Construction in Hopewell Township Has Dropped to a Trickle



Next Steps

- Pennytown contract and funding ordinances carried over to December 8
- Planning Board Public Hearing on Housing Plan November 13, 7:30 p.m.

Can law/regulations be amended to delay/revise requirements?

District 15 Legislators

State Senator Shirley Turner	(609)530-3277 1440 Pennington Rd., 1 st Floor Trenton, NJ 08618 senturner@njleg.org
Assemblywoman Bonnie Watson Coleman	226 W. State St. Trenton, NJ 08608 (609) 292-0500
Assemblyman Reid Gusciora	226 W. State St., Trenton, NJ 08608 (609) 292-0500

<http://www.njleg.state.nj.us/>



October 13, 2008

Appellate Division Rejects Municipalities' Request to Postpone Filing of Affordable Housing Plans

By order dated October 6, 2008, the Appellate Division has denied a motion by the League of Municipalities to postpone the December 31, 2008 deadline for some 280 towns to file new housing plans with the New Jersey Council on Affordable Housing (COAH). Towns that are subject to this deadline and who fail to file with COAH by that date lose their immunity from exclusionary zoning litigation until they do file. Because these towns have an urgent need to prepare and adopt new housing plans over the next 10 weeks, this is an opportune time for property owners and builders to propose projects that include both residential and mixed use low and moderate income housing. Thomas F. Carroll, III, Esq. and Stephen Eisdorfer, Esq. of Hill Wallack represented the New Jersey Builders Association opposing the application by the League.

Posted by Henry T. Chou, Esq. at 04:50 PM | [Permalink](#) | [Comments \(0\)](#) | [TrackBacks \(0\)](#)