

AFFORDABLE HOUSING
IN NEW JERSEY
AND HOW IT AFFECTS
MORRIS TOWNSHIP:

Terminology and Frequently Asked Questions

November 26, 2018

Terminology

Affordable Housing

Housing with a sales price or rent within the means of a very-low, low-, or moderate-income household.

Builder's Remedy

A Builder's Remedy lawsuit is a process created by the Mount Laurel II decision which allows a developer to bring litigation against a municipality to change zoning on a particular site if that developer demonstrates that the municipality is not in compliance with its Fair Share obligation or is engaging in exclusionary zoning practices. The developer in a Builder's Remedy lawsuit must promise to include a 20 percent set-aside of low- and moderate-income housing as part of its development.

COAH (Council on Affordable Housing)

Established by the 1985 Fair Housing Act COAH had primary jurisdiction for the administration of housing obligations, i.e., to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation.

The Supreme Court in 2015 found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts.

Fair Housing Act

In 1985, the New Jersey Legislature, in direct response to the Mount Laurel decisions, enacted the Fair Housing Act, which created the Council on Affordable Housing (COAH).

Fair Share Housing Center (FSHC)

Fair Share Housing Center (FSHC), founded in 1975, is a 501(c)(3) non-profit organization devoted to affordable housing advocacy in New Jersey. In response to a motion FSHC filed with the New Jersey Supreme Court to enforce litigant's rights, the Supreme Court in 2015 found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts. Under the 2015 Supreme Court decision, FSHC has "a seat at the table" to comment on every affordable housing plan in every town in the State.

Fair Share Obligation

A municipality's constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.

Fair Share Plan

A plan or proposal by which a municipality would satisfy its obligation to create a realistic opportunity to meet its fair share of the very-low, low-, and moderate-income housing needs of its region and that details the affirmative measures the municipality proposes to undertake to achieve its fair share of very-low, low-, and moderate-income housing.

Household

The person or persons occupying a housing unit.

Housing Element

That portion of a municipality's master plan consisting of reports, statements, proposals, maps, diagrams and text designed to meet the municipality's fair share of its region's present and prospective housing

needs, particularly with regard to low and moderate income housing.

Housing Region

A geographic area of not less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities, and which constitute to the greatest extent practicable the primary metropolitan statistical areas as last defined by the United States Census Bureau prior to the effective date of the Fair Housing Act.

Inclusionary Development

A residential housing development in which a percentage of the dwelling units are affordable to very-low, low- and moderate-income households.

Income, Low

Households with a gross income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

Income, Moderate

Households with a gross income equal to more than 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located.

Income, Very-Low

Households with a gross income equal to 30% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

Intervenor

Builders, developers, land owners and other interested parties who are allowed to "intervene" in the declaratory judgment proceedings that determine a municipality's fair share obligation. Intervenors typically take the position: 1) that the municipality has failed to zone for the creation of enough affordable housing and/or 2) that the intervenor owns a specific site that the town should allow for development of affordable housing.

Judgment of Compliance/Repose

A judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation. This judgment protects a municipality from Builder's Remedy lawsuits.

Mount Laurel Doctrine

The New Jersey Supreme Court, in Mount Laurel I (1975) and Mount Laurel II (1983), declared that municipal land use regulations that prevent affordable housing opportunities for the poor are unconstitutional and ordered all New Jersey municipalities to plan, zone for, and take affirmative actions to provide realistic opportunities for their "fair share" of the region's need for affordable housing for low and moderate-income people. Together, these two Supreme Court decisions comprise the Mount Laurel Doctrine. The Mount Laurel Doctrine prohibits economic discrimination against the poor by the state and municipalities in the exercise of their land use powers.

Overlay Zoning

A zoned area of a municipality in which very-low, low- and moderate-income housing may be built as a matter of right in addition to another use.

Prospective Need

A projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality.

Realistic Development Potential (RDP)

The municipal obligation based on available land capacity as calculated pursuant to a Vacant Land Adjustment (VLA).

Special Master

An expert appointed by the Court to assist the court in reviewing Fair Share Plans. A master's function is essentially as a mediator between the municipality and Fair Share Housing Center and Intervenors.

Unmet Need

The differential between the realistic development potential and a municipality's allocated fair share obligation.

Vacant Land Adjustment

An adjustment in a municipal affordable housing obligation due to available land capacity. A vacant land adjustment determines a municipality's realistic development potential (RDP).

Frequently Asked Questions

■ Administration of Affordable Units

What is Affordable Housing?

Housing with a sales price or rent within the means of a very-low, low-, or moderate-income household.

Who Qualifies for Affordable Housing?

In order to be eligible for affordable housing in New Jersey, a household's income must be below the income limit for the region in which the affordable housing is located, either for very low-, low- or moderate-income levels. A moderate-income household is classified as earning between 50 percent and 80 percent of the area median income. A low-income household is classified as earning less than 50 percent of area median income. Very low-income households are classified as earning less than 30 percent of area median income.

How Are Affordable Housing Units Administered?

The administration process is the same regardless of the type of unit. The municipality hires or appoints a Municipal Housing Liaison. The Municipal Housing Liaison (MHL) may perform all administrative functions for affordable housing throughout the municipality or may oversee a contract with an Administrative Agent (AA). The MHL and/or the AA must follow rules set forth in the Uniform Housing Affordability Controls (UHAC), found at NJAC 5:80-26.1, regarding establishing initial sales prices or rents, bedroom distribution, affordability average, low- and moderate-income split of units, and the very low-income set-aside.

How Are Rental and Sales Prices Initially Set?

Initial sales prices and rents are based on targeted "model" household sizes for each size home as determined by the number of bedrooms. With the exception of assisted living facilities, initial sales prices and rents must adhere to UHAC rules. These maximum sales prices and rents are based on Annual Regional Income Limits at the time of occupancy.

For rental units, annual rent increases are permitted in affordable units governed by UHAC. Rent increases are permitted at the anniversary of tenancy according to COAH's Annual Regional Income Limits Chart.

These increases must be filed with and approved by the Administrative Agent.

Calculating the maximum resale price (MRP) for an ownership unit involves applying the annual percentage increase corresponding with each calendar year since the Seller bought the house. The Seller of an ownership unit may ask the Administrative Agent to increase the sales price of their home beyond the maximum sales price under limited circumstances. UHAC states that only those improvements “that render the unit suitable for a larger household or that add an additional bathroom” can increase the calculated maximum sales price. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger households.

How Do You Find Out About An Affordable Unit or Home?

All affordable units that are governed by UHAC are required to be affirmatively marketed using an Affirmative Marketing Plan. To ensure that affirmative marketing is conducted properly, an Affirmative Marketing Plan must be adopted by resolution of the governing body and referenced by ordinance. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children to housing units which are being marketed by an Administrative Agent or a developer, sponsor, owner, property manager or landlord of affordable housing.

How Are Tenants Selected For a Vacant Unit?

Before any household can purchase or lease a restricted unit, the Administrative Agent must certify the household as eligible. Certification of a household involves the verification of two critical pieces of data: 1) Household size and composition, including gender; and 2) The total income and assets for all household members over 18 years of age. Households must submit a complete application and supporting documentation which is evaluated for eligibility for certification before the household is placed into the pool of applicants for available units. UHAC requires the random selection of applicants for placement in affordable units. Random selection is a process by which households are selected for placement in affordable housing units such that no

preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit.

What Happens When An Owner of An Affordable Unit Wishes to Sell?

When an owner of a restricted unit wishes to sell, the sale must be processed through the Administrative Agent. Typically, the resale process begins when an owner inquires of the Administrative Agent about the maximum resale price (MRP) of their unit. The Administrative Agent reviews the unit and any eligible capital improvements, and calculates the MRP. The MRP is calculated by using COAH’s Resale Price Calculator, which is based on COAH’s Annual Regional Income Limits Chart. The Administrative Agent uses their current applicant pool, which is based on a previous affirmative marketing process, or affirmatively markets the unit and conducts random selection if there is no current applicant pool.

How Much Do Residents/Tenants of Affordable Units Pay?

What is considered affordable depends on the region in which the municipality is located in. COAH divided the State into 6 regions. Morris County is in COAH Region 2 with Essex, Union and Warren Counties.

This table shows you incomes for 1, 2, 3 and 4 person households in Region 2 in 2018.

	1 Person	2 Person	3 Person	4 Person
Median	\$66,755	\$76,291	\$85,828	\$95,364
Moderate (80%)	\$53,404	\$61,033	\$68,662	\$76,291
Low (50%)	\$33,377	\$38,146	\$42,914	\$47,682
Very Low (30%)	\$20,026	\$22,887	\$25,748	\$28,609

UHAC limits the percentage of funds that a household can contribute toward housing expenses. For ownership units, UHAC states that a certified household is not permitted to purchase a unit that would require more than 33 percent of the verified household income to pay principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable. For Rental Units, UHAC states that a certified household is not permitted to lease

a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities.

■ Mount Laurel Decisions

Why Does Morris Township Have to Provide Affordable Housing?

In 1975, the New Jersey Supreme Court ruled in *Southern Burlington County NAACP v. Mount Laurel Township* that every municipality must by its land use regulations make realistically possible an appropriate variety and choice of housing. Local zoning laws that excluded low-income families (“exclusionary zoning”) violated the State Constitution. Exclusionary zoning practices included: single-family zoning with large minimum lot size requirement; minimum house size requirements; prohibition of multi-family housing; restrictions on the number of bedrooms in multi-family dwellings to limit household sizes; prohibition of mobile homes; and over-zoning for non-residential uses. This decision came to be known as Mount Laurel I.

In 1983, the New Jersey Supreme Court decided Mount Laurel II. The decision created specific requirements that every town in New Jersey must provide its “fair share” of the regional need for low- and moderate-income housing. Towns would have to provide a “realistic opportunity” for such housing—not just zone wetlands or an isolated location in an industrial park, but actually show how their zoning and other affirmative measures would lead to construction of such housing. Mount Laurel II also enhanced mechanisms that developers and public interest groups could use to ensure compliance by municipalities, such as the “builder’s remedy,” which allows a developer to bring litigation against a municipality to change zoning on a particular site if that developer demonstrates that the municipality is not in compliance with its Mount Laurel obligations or is engaging in exclusionary zoning practices. The developer must promise to include a 20 percent set-aside of low- and moderate-income housing as part of its development.

What is a Builder’s Remedy Lawsuit?

Because the Legislature had not acted to effectuate Mt. Laurel I’s recognition of municipalities’ constitutional zoning obligations, the Court in Mt. Laurel II fashioned a judicial remedy. That remedy created a special litigation track for exclusionary zoning cases and permitted, ultimately, a “builder’s remedy” by which builders could file suit for the opportunity to construct housing at higher densities than a municipality otherwise would allow.

In other words, if a municipality is found to have exclusionary zoning practices or has not provided its fair share of affordable housing then a developer can propose to construct housing at a higher density than is otherwise permitted on a property so long as the development includes a “substantial” affordable housing component. The Court-imposed “solution” or “remedy” can be completely inconsistent with the surrounding property and land uses. Essentially, the municipality loses local control over its own zoning ordinances. Additionally, it is extremely difficult and costly for municipalities to contest in a Builder’s Remedy lawsuit in Court. It is always in a municipality’s best interest to avoid a Builders’ Remedy lawsuit.

What Is (Was) COAH?

In 1985, the Legislature codified the Mount Laurel Doctrine in the Fair Housing Act (FHA) N.J.S.A. 52:27D-301 et al , which created the Council on Affordable Housing (COAH). Per the FHA, COAH was required to:

- Enact regulations that establish, and thereafter update, statewide affordable housing need;
- Assign to each municipality an affordable housing obligation for its designated region; and
- Identify the delivery techniques available to municipalities in addressing the assigned obligation.

Each municipality’s obligation was based on a calculation of statewide need that is then distributed to regions which is then distributed to individual municipalities. Municipalities submitted Housing Elements and Fair Share Plans outlining how it would address its Fair Share obligations to COAH. COAH then granted substantive certification.

[Please note: there was a 1986 Mt. Laurel III decision which affirmed the validity of the Fair Housing Act.]

What Were the COAH Rounds?

COAH adopted rules governing the period from 1987 to 1993 (“The First Round Rules”) and subsequently rules governing the period from 1987 to 1999 (“The Second Round Rules”). These two rounds are now referred to as the “Prior Round”. Municipalities’ had “fair share” obligations under each of these rounds. Municipalities had an option under each of these rounds: file a Housing Element and Fair Share Plan with COAH and get under COAH’s protection from Builders’ Remedy lawsuits; or do nothing and risk a “builder’s remedy lawsuit.”

Mount Laurel Prior Rounds

What Was Morris Township's Prior Round (1987-1999) Affordable Housing Obligation?

COAH dictated that Morris Township had a Prior Round Obligation of 293 Units. It is important to note that the Prior Round obligations have been upheld by the Supreme Court. Morris was able to address its Prior Round obligations through the following mechanisms:

Project	Block/Lot	Tenancy	Units	Rental Bonuses	Total	Status
Prior Cycle Credits= 100 units						
Morris Mews	B: 1901/L: 3	Age-Restricted Rental Units	100 ¹		100	Complete
100 Percent Affordable Projects= 21 units and 6 rental bonus credits						
Dean A. Gallo Congregate Living	B: 1901/L: 2	Age-Restricted Rentals	19	6	25	Complete
MLK/Emmett Avenue	B: 10311/L: 21	Sales	2		2	Complete
Inclusionary Development Projects= 200 units						
Moore Estate	B: 7902/L:1	Sales	64 ²		64	Complete
James St. Commons	B: 6705/L: 2	Sales	16 ²		16	Complete
Woodcrest (Oaks)	B: 9902/L: 48	Sales	21		21	Complete
Cory Road (Millrace)	B: 10311/L: 1	Sales	4		4	Complete
Village at Convent	B: 8301/L: 1	Sales	25		25	Complete
Rose Arbor	B: 1501/L: 1	Sales	70		70	Complete
Alternative Living/ Supportive and Special Needs Housing= 41 units and 41 rental bonus credits						
ARC House (1)	Confidential	Rental	15	15	30	Complete
Homeless Solutions Transitional Housing	Confidential	Rental	11	11	22	Complete
Allegro Autism School Group Home	Confidential	Rental	5	5	10	Complete
Delta Community Support	Confidential	Rental	4	4	8	Complete
ARC House (2)	Confidential	Rental	6	6	12	Complete
Total			362	47	409³	
³ Surplus of 116 Units over 293 Unit Prior Round Obligation						

The number of units built in Morris in the Prior Round was 362. COAH allowed bonuses for rental housing in order to incentivize rental housing. Morris was eligible for 47 rental bonuses in the Prior Round. The number of built units plus eligible bonuses resulted in a total of 409 credits or a surplus of 116 units over the Prior Round obligation of 293 units.

■ Mount Laurel Third Round

Why Does COAH No Longer Review Housing Elements and Fair Share Plans?

After the Second Round rules expired in 1999, COAH three times tried to issue rules for the post 1999 time period. Each of the three iterations were either struck down or, in the case of the third iteration, never adopted. In 2015, fed up with COAH's inaction, the Supreme Court turned over the affordable housing process to the Courts. This decision is known as Mt. Laurel IV.

What Process Did the Courts Put in Place as a Result of the 2015 Supreme Court Decision?

In the wake of the 2015 Supreme Court Decision, the Court created 13 vicinages (or courts) to hear petitions for certification of municipal housing plans. In order to see similar protections against Builders' Remedy lawsuits as under COAH, municipalities were required to file a declaratory judgment (DJ) action with the trial courts seeking to declare their Housing Elements and Fair Share Plan as being constitutionally compliant. Fair Share Housing Center as party to the original Supreme Court lawsuit was given special status by the Court in which they had to approve of any municipality's Housing Element and Fair Share Plan. Builders, developers, land owners and other interested parties ("Intervenors") were allowed to intervene in the proceedings. The filing of the DJ action began a negotiation process between the municipality, Fair Share Housing Center, and intervenors. The negotiation process was overseen by a court appointed Special Master (i.e., a mediator). Fair Share Housing Center had to approve of any proposed Settlement Agreement.

Did Morris Have Any Intervenors?

Yes, Morris had one intervenor known as One Cory Road Associates LLC who own One Cory Road.

Did Morris Township File a DJ Action?

Yes, Morris Township filed a DJ Action in June 2015. The Township then began negotiations with Fair Share Housing Center (FSHC), and an Intervenor, One Cory Road Associates. The negotiation process was overseen by Michael Bolan, AICP, PP, who acted as Special Master. Morris reached a Settlement Agreement with FSHC in December 2017. There was a Fairness Hearing for the Settlement Agreement in December 2017 whereby the Court ordered updated Housing Element and Fair Share Plan and other materials be submitted. An updated Housing Element and Fair Share Plan was adopted in May 2018. In June and October 2018 there were Compliance Hearings. A Judgment of Compliance/Repose was granted on October 31, 2018.

What Would Have Happened if Morris Did Not File a DJ Action or Negotiated with Fair Share Housing Center?

If Morris did not file a DJ action or negotiate with Fair Share Housing Center, the Court could have taken away the Township's immunity from Builder's Remedy lawsuits. The only way the Township could protect itself from a Builder's Remedy lawsuit was to settle with Fair Share Housing Center and submit a Housing Element and Fair Share Plan to the Court and receive a Judgment of Compliance/Repose from the Court. It was beneficial to the Township to settle with Intervenor and other property owners with the approval of the Special Master. Negotiating to reach settlements with intervenors and other prospective developers helped insulate these properties from development plans with high densities far beyond those previously approved in Morris Township. The Judgment of Compliance/Repose is granted through 2025, during which the Township is "immune" from any Builder's Remedy lawsuits so long as the Township continues to comply with its Housing Plan.

What Are the Municipal Third Round Obligations?

As part of its 2015 Decision, the Supreme Court ruled that municipal Fair Share obligations will be determined by the trial court on a case-by-case basis. The Supreme Court directed municipalities to rely on the Prior Round methodologies to

determine Third Round obligations. This methodology involved using Census data, population projections, household generation, income, employment, availability of land, among other factors. Estimates of municipal Third Round obligations became the subject of additional lawsuits. Fair Share Housing Center hired a numbers expert named David Kinsey who proffered the “Kinsey numbers”. Municipalities as part of a consortium (which Morris joined) hired their own expert, Econsult, Inc. There were two notable trials over the numbers including one in Middlesex County which ruled in favor of the Kinsey Numbers and one in Mercer County which ruled in favor of a yet a third set of numbers known as the “Reading numbers” as they were calculated by Richard Reading. These trials were lengthy and costly for the municipalities involved. No consensus on municipal Third Round obligations has ever been reached.

What is the Time Period of the Third Round?

The duration of the Third Round obligation was also subject to litigation. It was agreed that the Prospective Need time frame stretched from the 10 year period beginning with the 2015 Supreme Court decision (i.e., 2015-2025). At question was how to address the 16 years prior to the 2015 Supreme Court decision for which there were no COAH rules, i.e., 1999-2015. This period of time became known as the Gap Period. The Supreme Court in what came to be known as Mt. Laurel V determined that municipalities did have an obligation generated between 1999-2015 that had to be addressed. As such, municipalities must address a Third Round Gap Period (1999-2015) obligation and Prospective Need (2015-2025) obligation in its Third Round Housing Element and Fair Share Plan.

How Much Affordable Housing Does Morris Have to Provide for the Third Round?

Fair Share Housing Center’s “Kinsey numbers” indicated that Morris had an obligation to provide 1,095 affordable housing units by 2025. As part of the Settlement Agreement negotiation process, Fair Share lowered that number by 30 percent to 767 units. However, the 767 unit number was still not realistic given the lack of available land in Morris Township. As such, the

Township undertook a vacant land adjustment (VLA). A vacant land adjustment is a process whereby a municipality can inventory its vacant land to demonstrate that it lacked sufficient land to provide the required affordable housing. In other words, a VLA shows the amount of land that can be developed for affordable housing and the number of affordable units that can be developed on that land. The number of units which can be realistically built is called a municipality's realistic development potential (RDP).

Morris undertook a VLA which showed that the Township had a RDP of 400 units. Fair Share Housing Center accepted the RDP of 400 units. Therefore, Morris had to come up with a Third Round plan for 400 units. Additionally, the Township is required to provide mechanisms to make up the difference between the Fair Share number of 767 units and the RDP of 400 units. This 367 unit number is called the "unmet need".

How Will Morris Address its Third Round Obligation?

Project	Block/Lot	Tenancy	Units	Rental Bonuses	Total	Status
Prior Round Surplus Credits= 116 units						
Morris Mews	B: 1901/L: 3	Age- Restricted Rental Units	38 ¹		38	Complete
Moore Estate	B: 7902/L:1	Sales	64		64	Complete
James St. Commons	B: 6705/L: 2	Sales	14 ¹		14	Complete
100 Percent Affordable Projects= 30 units and 25 rental bonus credits						
MCHA- 19 Carlton	B: 10304/ L: 25	Sales	5		5	Complete
MCHA- 6 Monroe Street/227 MLK Ave	B: 10307/ L: 14	Rentals	6	6	12	2 units are complete. The Township will provide \$25,000 per unit for each of the additional 4 units.
Homeless Solutions- Jean Street Apartments	B: 901/ L: 4.01	Rentals	15	15	30	Complete
Homeless Solutions- 24 Walnut	B: 10306/ L: 7	Rentals	2	2	4	Complete
Homeless Solutions- 88 MLK Ave	B: 10314/ L: 1	Rentals	2	2	4	The Township will provide \$25,000 per unit for both units
Inclusionary Development Projects= 154 units and 75 rental bonus credits						
Honeywell Site	B: 9101/ L: 6-7	Sales	24		24	Under Construction
Colgate	B: 10401/ L: 3	Rental	66	42	108	Approved
Sisters of Charity	Portion of B: 8801/ L: 1	Rental	33	33	66	Planned
95 Mt. Kemble Avenue	B: 5506/ L: 25 B: 5605/ L: 5-8	Rental	23		23	Planned
375-403 Mt. Kemble Avenue	B: 5101/ L: 4-7	Sales	7		7	Planned
Grant Homes a.k.a. 122 Mt. Kemble Avenue	B: 5604/ L: 1	Rental	1		1	Planned
Total			300	100	400	

How Will Morris Address its Unmet Need?

The RDP of 400, subtracted from the Third Round Prospective Need obligation of 767 units, results in an unmet need of 367 units, which shall be addressed through overlay zones and a Township-wide mandatory set-aside ordinance. The Township will provide a realistic opportunity for the development of affordable housing through the adoption of overlay zoning that will allow for inclusionary development on a number of sites within the municipality including the following:

Project	Block/Lot	Acreage	Density (dwelling units/acre)	Total Units	Set-Aside (%)	Total Affordable Units
One Cory Road	B: 10401/L: 2	17.2	12/15 ¹	206	15/20 ¹	31
Block 10312/ Lot 1; Block 10313/ Lot 13	B: 10312/L: 1 B: 10313/L: 13	3.02	10	30.2	15	5
Block 10103/ Lot 4;	B: 10103/ L: 4	1.82	10	18.2	15	3
Block 10103/ Lot 5	B: 10103/ L: 5	1.23	10	12.3	15	2
Block 10104/ Lot 1	B: 10104/ L: 1	5.11	10	51.1	15	8
Block 10104/ Lot 13	B: 10104/ L: 13	2.11	10	21.1	15	3
Block 10001/ Lot 8	B: 10001/ L: 8	5.0	10	50	15	8
Total						60

1. The developer of One Cory Road has the option to build at a density of either 12 units per acre with a 15 percent affordable set aside or 15 units per acre at a 20 percent set aside.

Additionally, the Township will establish a mandatory set-aside requirement of 20 percent if the affordable units will be for sale and 15 percent if the affordable units will be for rent, for any multi-family or single-family attached residential development providing a minimum of five (5) new units created through any municipal rezoning; Zoning Board of Adjustment use or density variance; redevelopment plan or rehabilitation plan providing for redevelopment with density at or above six (6) units per acre or other compensatory benefits. This does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Morris Township to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

What Happens Next?

The Township will continue to implement its Housing Element and Fair Share Plan by enacting new zoning, facilitating/approving new development in the plan, and monitoring the development of affordable housing projects. Because it has received a Judgment of Compliance/Repose, the Township is protected from Builder’s Remedy lawsuits until 2025.

Will Morris Have to Provide More Affordable Housing in the “Fourth Round” beginning July 2, 2025?

The Courts have determined that the constitutional obligation to provide for the development of affordable housing is a continuing obligation. The “Fourth Round” will commence in 2025. Compliance with each round is what gives a municipality a period of immunity against builder’s remedy lawsuits.