

THE AFFORDABLE HOUSING ADMINISTRATION TEAM

THE MUNICIPAL HOUSING LIAISON

Responsibilities of the Municipal Housing Liaison

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, **Responsibilities of an Administrative Agent**.

Monitor the status of all restricted units in the municipality's Fair Share Plan. Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households. The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

Compile, verify and submit annual reporting. Administrative Agents are responsible for collecting much of the data that is ultimately included in COAH monitoring reporting. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into monitoring reporting to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison. Primary responsibility for submitting monitoring information for an Affordable Housing Trust Fund may be delegated to a Trust Fund Report Preparer.

Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners. When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner. The developer, affordable housing sponsor or owner may serve as their own Administrative Agent, if they meet the applicable requirements and are approved by the municipality and COAH. The purpose of this initial meeting is to develop a clear division of labor between

the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

It is the responsibility of the Municipal Housing Liaison, in conjunction with the Municipal Attorney, to have the affordable housing provisions of any Master Deed and Public Offering reviewed for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

Provide Administrative Services, unless those services are contracted out. The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent.**

RCA ADMINISTRATOR

A Municipal Housing Liaison may also serve as the municipal RCA Administrator or another employee may be an RCA Administrator. The RCA Administrator is the primary contact regarding RCA funds contributing to the construction of affordable housing in a municipality. If there is no Municipal Housing Liaison, the RCA Administrator has the same responsibilities as a Municipal Housing Liaison. Additionally an RCA Administrator monitors the RCA bank account, receipt of funds from the receiving municipality per the schedule of payments in the RCA contract and disbursements and provides required RCA monitoring reports to COAH.

THE ADMINISTRATIVE AGENT

Responsibilities of the Administrative Agent

The primary responsibility of the Administrative Agent is to establish and enforce affordability controls and ensure that units in their portfolio are sold or rented, as applicable, to eligible households. Administrative Agents must:

Secure written acknowledgement from all developers, affordable housing sponsors, owners and tenants that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Create and adhere to an Operating Manual. All Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform. As appropriate, the Operating Manual should also be available in other languages.

Implement the municipality's Affirmative Marketing Plan. The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent, and developer/affordable housing sponsor/owner this responsibility should be discussed.

Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.

Accept applications from interested households. In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

Conduct random selection of applicants for resale or rental of restricted units. The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual. In order to maintain an open and fair process, all households eligible for inclusion in the random selection should be informed of the date and time that the selection will take place.

Create and maintain a pool of applicant households. This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.

Determine eligibility of households. The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of the Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is the Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. The Administrative Agent is required to ensure that all certified applicants execute a certificate acknowledging the rights and requirements of owning or renting an affordable unit, in the form of Appendix J or K of UHAC, as applicable.

Establish and maintain effective communication with owners, property managers and landlords. Owners, property managers and landlords of restricted units should be instructed and regularly reminded that the Administrative Agent is their primary point of contact. The Administrative Agent shall immediately inform all owners, property managers and landlords of any changes to the Administrative Agent's contact information or business hours. The Administrative Agent must create and distribute annual mailings to all Owners of affordable units reminding them of the rights and requirements of owning an affordable unit (N.J.A.C. 5:80-26.18(d)4).

Preserve affordability controls during the sale of restricted units. Immediately upon being notified of an Owner's intent to sell their property, the Administrative Agent should inform the Owner of their role in the marketing and sale of the home. The Administrative Agent is responsible for extinguishing the affordability controls with the

Seller and re-establishing them with the Buyer. The Administrative Agent shall be responsible for providing closing attorneys/agents with the appropriate legal instruments.

Ensure cancellations of Recapture Mortgages are effectuated. It is the Administrative Agent's responsibility to ensure that Recapture Mortgages are cancelled at the conclusion of the control period when the Recapture Mortgage is satisfied. If the Recapture Mortgage is being cancelled due to a sale of the property during the control period, then the Administrative Agent may wish to cancel the original Recapture Mortgage only after the Recapture Mortgage with the new Owner has been recorded.

Send out annual mailings about restrictions. Administrative Agents must annually mail to all Owners of affordable housing units a reminder of their rights and responsibilities as Owners of an affordable unit.

Provide annual notification of maximum rents. Each year when COAH releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.

Ensure unit has Continuing Certificate of Occupancy at transfer. To help ensure a healthy and safe living environment for all families, the Administrative Agent is responsible for requesting an inspection or a certified statement from the local Building Inspector at the first sale after the expiration of the minimum affordability control period.

Serve as the custodian of all legal documents. The Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a unit's control period, the Administrative Agent shall maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds and Recapture Mortgages, as well as Recapture Mortgage Notes and Appendices J and K.

Serve as point of contact on all matters relating to affordability controls. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.

Provide annual activity reports to Municipal Housing Liaison for use in the annual COAH monitoring report. The Administrative Agent is responsible for collecting the reporting data on each unit in their portfolio.

Maintain and distribute information on HUD-approved Housing Counseling Programs.

SECRETARIES OF THE PLANNING BOARD AND ZONING BOARD

When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner.

The Secretaries of the Planning Board and Zoning Board must advise developers of affordable housing to arrange a meeting with the Municipal Housing Liaison regarding municipal and COAH regulation of affordable housing.

Monitor the status of all restricted units in the municipality's Fair Share Plan. Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

The Secretaries of the Planning Board and Zoning Board must advise the Municipal Housing Liaison when approvals requiring the construction of affordable housing or a payment in lieu have been granted to a developer. It is recommended that a copy of the board resolution of approval be provided to the Municipal Housing Liaison.

A municipality may require that the costs of advertising affordable units are to be a developer's responsibility. Such a requirement must be a condition of the municipal planning board or zoning board approval and required by ordinance. If required by ordinance, the Operating Manual should include this requirement and outline a process to bill the developer for the advertising costs.

If by ordinance a municipality may require that the costs of advertising affordable units are to be a developer's responsibility, the Secretaries of the Planning Board and Zoning Board must advise the Municipal Housing Liaison when such condition has been made a condition of the municipal planning board or zoning board approval.

MUNICIPAL ATTORNEY

Responsibilities of the Municipal Attorney

The Municipal Attorney assists the municipality with developing, administrating, and enforcing affordability controls, including but not limited to

- Assisting the Municipal Housing Liaison with the review of the affordable housing provisions of any Master Deed and Public Offering for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls, including reviewing legal documents and legal actions required on foreclosures and violations.

MUNICIPAL PLANNER

The Municipal Planner prepares the municipal Housing Element and Fair Share Plan, the petition for substantive certification from COAH, any amendments to these plans, as well as reports required when the municipal Housing Element and Fair Share Plan are to be evaluated by COAH. The Municipal Planner may seek information from the Municipal Housing Liaison, RCA Administrator and Administrative Agent regarding monitoring data and documentation required to be submitted for completed units, information on bank accounts and affirmative marketing. The Municipal Planner should be of assistance regarding questions about the Housing Element and Fair Share Plan.

CONSTRUCTION OFFICIAL

Compile, verify and submit annual reporting. Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison.

The Construction Official must advise the Municipal Housing Liaison when a CO is issued for an affordable housing unit or when the final inspection for a rehabilitated unit is completed. COAH requires that the Construction Official certify the issuance of the CO for an affordable unit and for rehabilitated units, that a major system has been rehabilitated and the date of the final inspection.

Ensure unit has Continuing Certificate of Occupancy at final transfer. To help ensure a healthy and safe living environment for all families, an Administrative Agent is responsible for requesting an inspection or a certified statement from the local Building Inspector at the first sale after the expiration of the minimum affordability control period.

The municipality must provide by ordinance that a Continuing Certificate of Occupancy be required at final transfer. The Construction Official, after inspections are conducted, issues the Continuing Certificate of Occupancy.

An Owner shall make no improvements to the unit that would effect its bedroom configuration or to increase the maximum permitted resale price, except for improvements approved in advance and in writing by the Administrative Agent.

The Construction Official should advise the Municipal Housing Liaison of any requests for a construction permit for an affordable housing unit.

The Construction Official maintains records regarding the adaptability and accessibility of affordable units pursuant to the Barrier Free regulations. The Construction Official will have information on when a developer must deposit funds into the Barrier Free Escrow Account. Each municipality determines how these funds will be processed.

TAX ASSESSOR and TAX COLLECTOR

The Owner must have approval of the Administrative Agent if they wish to refinance their mortgage or take out a home equity loan and, consequently, will be seeking a subordination of their mortgage.

The Tax Assessor must notify the Municipal Housing Liaison of any new Deed filed (indicating an illegal sale). The Tax Collector will be notified if a new Mortgage is attached to the property (usually the mortgage holder pays the taxes) or of any change of address for the property owner.

The Owner shall pay all taxes and public assessments and assessments by the condominium association levied upon or assessed against the unit, or any part thereof, when they become due and before penalties accrue.

The Tax Collector must notify the Municipal Housing Liaison of any default in the payment of taxes on affordable units.

Determining the Recapture Mortgage Amount

The amount that the Mortgage Note recaptures is the difference between the fair market value and the restricted maximum sales price. Fair market value is based on either an appraisal of its unrestricted price or the unit's equalized assessed value of its unrestricted price, at the time of each purchase. For example, if the restricted sales price of the unit is \$110,000 and the appraised unrestricted market value of the unit is \$200,000, the Recapture Mortgage Note would be for \$90,000. The [*insert municipality's name*] has determined to use the [appraised value or equalized assessed value (*select one*)] to establish the amount of the Recapture Mortgage.

The municipality must determine the methodology it will use to determine the Recapture Mortgage amount. The Tax Assessor may be asked to determine the unrestricted market value or equalized assessed value of an affordable housing unit in order to establish the Recapture Mortgage amount.

The Municipal Housing Liaison should make sure the Tax Assessor is not assessing a restricted affordable housing unit at the unrestricted market price.

MUNICIPAL CLERK

In the event that any first mortgagee or other creditor of an Owner of a low- and moderate-income unit exercises its contractual or legal remedies available in the event of default or nonpayment by the Owner of a low- and moderate-income unit, the Owner shall notify the Administrative Agent in writing within 10 days of such exercise by the first mortgagee or creditor and no later than 10 days after service of any summons and complaint.

The Municipal Clerk receives all official notices, including foreclosure notices and should advise the Municipal Housing Liaison and Municipal Attorney immediately of any legal action on an affordable housing property owner.

The Municipal Clerk is responsible for retention of records in the municipality, as well as making sure that imaged files meet state certification criteria. The Municipal Clerk should advise the Municipal Housing Liaison regarding state requirements for records management.

CHIEF FINANCIAL OFFICER

If a municipality has an Affordable Housing Trust fund for any reason, including but not limited to development fees, in lieu payments, recapture funds, barrier free escrow funds, the Chief Financial Officer usually completes the financial monitoring required by COAH. The Chief Financial Officer may also assist in completing the required reporting on implementation of the Spending Plan.

MUNICIPAL WATER AND SEWER UTILITIES

The Owner shall pay all charges of any utility authority when they become due and before penalties accrue.

The municipal water and/or sewer utility should advise the Municipal Housing Liaison if an affordable housing property owner is in arrears on the payment of water and/or sewer utility charges.

CONDOMINIUM ASSOCIATION

An Owner shall notify the Administrative Agent within 10 days, in writing, of any default in the performance by the Owner of any obligation under either the master deed of the condominium association, including the failure to pay any lawful and proper assessment by the condominium association, or any mortgage or other lien against the low- and moderate-income unit, which default is not cured within 60 days of the date upon which the default first occurs.

Although not required by regulation, the Municipal Housing Liaison should ask Condominium Associations to provide notice of any change in ownership or change in address of any owner, of an affordable unit, as well as if the affordable unit owner becomes in arrears in the payment of any condominium association fees or assessments.

The Owner shall at all times maintain the unit as his or her principal place of residence, defined as residing at the unit at least 260 days out of each calendar year.

The Condominium Association is frequently aware of when a unit is not being maintained as a principal place of residence and/or or illegal rentals.

HOUSING COMMITTEE

Many municipalities have established an advisory affordable housing committee to provide advice to the municipality, the Planning Board and the Governing Body, regarding affordable housing needs in the community and programs to address those needs. The affordable housing committee may also help establish those policies needed to be incorporated into the municipal Operating Manual, such as what random selection process should be implemented in the municipality. The Committee should not assume any of the responsibilities of the Municipal Housing Liaison or Administrative Agent, for example screening applicants. Nor should the committee hear appeals.

OWNERS, LANDLORDS AND PROPERTY MANAGERS

Owners of For-sale Units. Once affordability controls are in place and measures have been taken by the Municipal Housing Liaison to prevent the illegal sale or rental of the unit, there are no reporting responsibilities required of the Owner. Owners should, however, read annual mailings from the Administrative Agent, and cooperate with any and all requests for information from either the Municipal Housing Liaison or the Administrative Agent.

Owners must contact the Administrative Agent in the following circumstances:

- If they are considering or have decided to sell their home.
- In the event they wish to refinance their mortgage or take out a home equity loan
- and, consequently, will be seeking a subordination of their mortgage.

- If they are seeking an increase in the sales price of their unit due to capital improvements.
- If they are seeking a hardship waiver to allow them to rent their unit.

Owners, Landlords and Property Managers of Rental Developments. Open and direct communication between the Owners, Landlords and Property Managers of rental developments, the Municipal Housing Liaison and the Administrative Agent is essential to ongoing administration of affordability controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental developments are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual COAH reporting. Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

Landlords and property managers must contact the Administrative Agent:

- Immediately upon learning that an affordable rental unit will be vacated.
- For review and approval of annual rental increases.

THE DEVELOPER

Obligations of a Developer of Affordable Housing

When a new affordable unit or series of units is in the planning process, the developer of affordable housing should contact the Municipal Housing Liaison who shall coordinate a meeting with the Administrative Agent, where applicable, and the developer, affordable housing sponsor or owner. The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

The Administrative Agent will secure from the developer written acknowledgement that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

The developer or sponsor of any project containing affordable units shall promptly provide to Administrative Agent the following information, upon the latter of either final municipal land use approval or issuance of a grant contract by a governmental authority:

1. The total number of units in the project, and number of restricted units, broken down by bedroom size, identifying which are low- and which are moderate-income units, and including street addresses of restricted units;
2. Floor plans of all affordable units, including complete and accurate identification of uses and dimensions of all rooms;
3. A project map identifying the locations of affordable units and market units;

4. Projected construction schedule;
5. Proposed pricing for all units, including any purchaser options and add-on items;
6. Information as to financing terms readily available to low- and moderate-income households for use by the Administrative Agent in computing maximum sales prices;
7. A list of all public funding sources, and copies of grant or loan agreements for those sources;
8. Condominium fees or homeowner association and any other maintenance or other fees;
9. Estimated real property taxes for sale units;
10. Sewer, trash disposal and any other utility assessments;
11. Flood insurance requirement, if applicable;
12. A description of all HVAC systems;
13. Location of any common areas and elevators;
14. Proposed form of lease for any rental units;
15. The name of the person who will be responsible for official contact with the Administrative Agent for the duration of the project;
16. The State-approved Planned Real Estate Development public offering statement and/or master deed where available;

The Municipal Housing Liaison and/or the Administrative Agent will review the affordable housing provisions of any Master Deed and Public Offering, for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

Where applicable, the responsibilities of the developer shall include but not be limited to the following:

- Submission of proofs of publication to ensure compliance with the approved Affirmative Marketing Plan;
- The marketing of all low- and moderate-income units in accordance with the requirements the municipal Affirmative Marketing Plan approved by COAH;
- Submission of quarterly reports to the Administrative Agent detailing the number of low- and moderate-income households who have signed leases or purchase agreements, as well as the number who have taken occupancy of low- and moderate-income units, including household size, number of bedrooms in the unit, if the unit is accessible or adaptable, sales price and monthly carrying costs

or, in the case of rental units, the monthly rental charges and utilities included, as well as any additional fees.

The developer's responsibilities shall expire automatically with respect to for-sale low- and moderate-income units upon the date upon which the last low- and moderate-income unit within the particular development is sold by the developer. With respect to rental low- and moderate-income units, the developer's responsibilities shall be assumed by the landlord and shall be performed by the landlord so long as such unit is a rental low- and moderate-income unit and subject to the restrictions pursuant to UHAC.

Thursday, November 20

**LEAGUE JOINT SESSION WITH TAX COLLECTORS AND TREASURERS
ASSOCIATION AND GOVERNMENT FINANCE OFFICERS ASSOCIATION, AND NEW
JERSEY PLANNING OFFICIALS: TECHNIQUES TO COMPLY WITH THE NEW COAH
REGULATIONS**

10:45 a.m. – 12:00 noon – Room 303 – Atlantic City Convention Center

This session will discuss the latest regulations, implementation, and monitoring of affordable housing and housing trust funds. The focus of the seminar is to orient municipal tax assessors, tax collectors, treasurers, and finance officers as to their role in affordable housing.

Presiding: Mark W. Holmes
Mayor, Lawrence (Mercer)
Board Member, Council on Affordable Housing

Speakers: Shirley M. Bishop
Professional Planner/Consultant
Shirley M. Bishop, LLC

Frank Piazza
President
Affordable Housing Professionals of New Jersey

Edwin W. Schmierer
Mason, Griffin & Pierson, PC
League Counsel

Lucy Vandenberg
Executive Director, COAH
State Department of Community Affairs

6/26/08 bw\
10/09/08 kev

The Municipal Housing Liaison Comes of Age



By Frank Piazza
President, Affordable Housing
Professionals of New Jersey



Before a single unit gets built, it is important that the MHL is involved in the development process to protect the interest of the town.

For some long time now, the Council on Affordable Housing (COAH) has been encouraging every municipality that participates in the COAH process to designate an employee to serve as its Municipal Housing Liaison (MHL). Looking back, my first impression of the job description of the MHL was based more on the need to find someone in town hall who could answer questions about the local affordable housing program, than on someone who was going to coordinate a process or program. The MHL was the person who knew all of the municipal offerings for low- and moderate- income housing: the "go to" person to contact for an application or a phone number where an application could be found. Thus, the term, "liaison," seemed quite appropriate.

During the development of the MHL certification course, however, it became clear to me that the Municipal Housing Liaison was much more than the affordable housing contact person in the municipal directory. Moreover, I realized that the scope and breadth of the job could be virtually

It is only now that the Council includes a Municipal Housing Liaison requirement solidly within its rules, providing us with both a definition and a brand new chapter that details the appointment, role and responsibility of the MHL.

limitless; depending on the size of the municipal program and the number of units it has planned and completed.

The first hint of a comprehensive job description can be found in the model ordinance that COAH published on its website, www.state.nj.us/dca/coah/.¹ It is only now, however, that the Council includes a MHL requirement solidly within its rules, providing us with both a definition² and a brand new chapter³ that details the appointment, role and responsibility of the MHL.

The responsibilities set forth in these revised rules closely resemble the responsibilities listed in the sample ordinance that was published by COAH. They include:

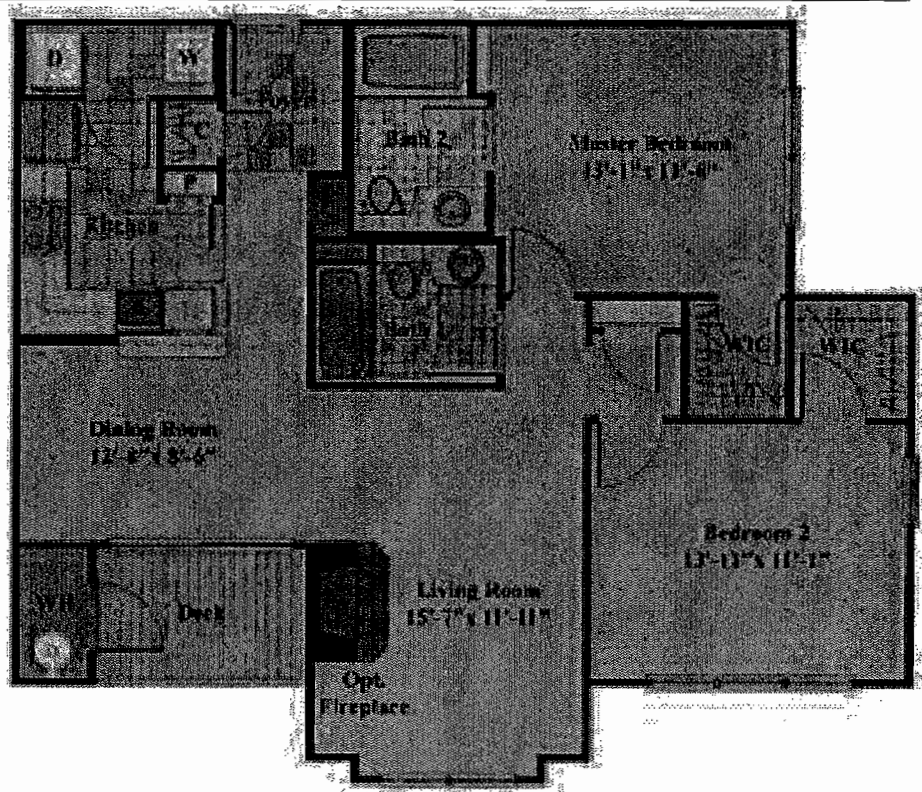
- Monitoring the status of all proposed and completed affordable housing programs and affordable units in the municipality's Fair Share Plan;
- Compiling, verifying, and providing monitoring information at such time and in such form as the Council requires;
- Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
- Where applicable, providing to an administrative agent a copy of the adopted municipal operating manual(s), Housing Element and Fair Share Plan and ordinances relating to the creation and administration of the municipality's affordable housing programs and/or affordable units.⁴

In addition, COAH provides that the MHL can act as the Administrative Agent for one or all of the affordable programs and units within a municipality. Conversely, only the role of Administrative Agent may be outsourced to third-party providers. All other duties of the MHL must be provided by employees of the municipality.⁵

New and improved In order to catch a hint of the developing complexity and diversity of roles associated with the MHL in the revised rules, one need only to look at the first item listed, above. Whereas the model ordinance had referred to "all restricted units," the new rule itemizes by listing, "all proposed and completed affordable housing programs and affordable housing units." Although this may not look significant at first blush, I think that it highlights some of the more demanding aspects of the position.

Responsibility for "Proposed" Programs and Units The word, "proposed," emphasizes that the MHL must now be involved well before the actual start of an affordable housing program or the construction of the affordable units. This is a key factor in understanding the role and responsibility of the MHL.

What happens when only 40 two-bedroom rental units are constructed to meet an affordable housing obligation with a 20% minimum requirement for three-bedroom apartments? Or



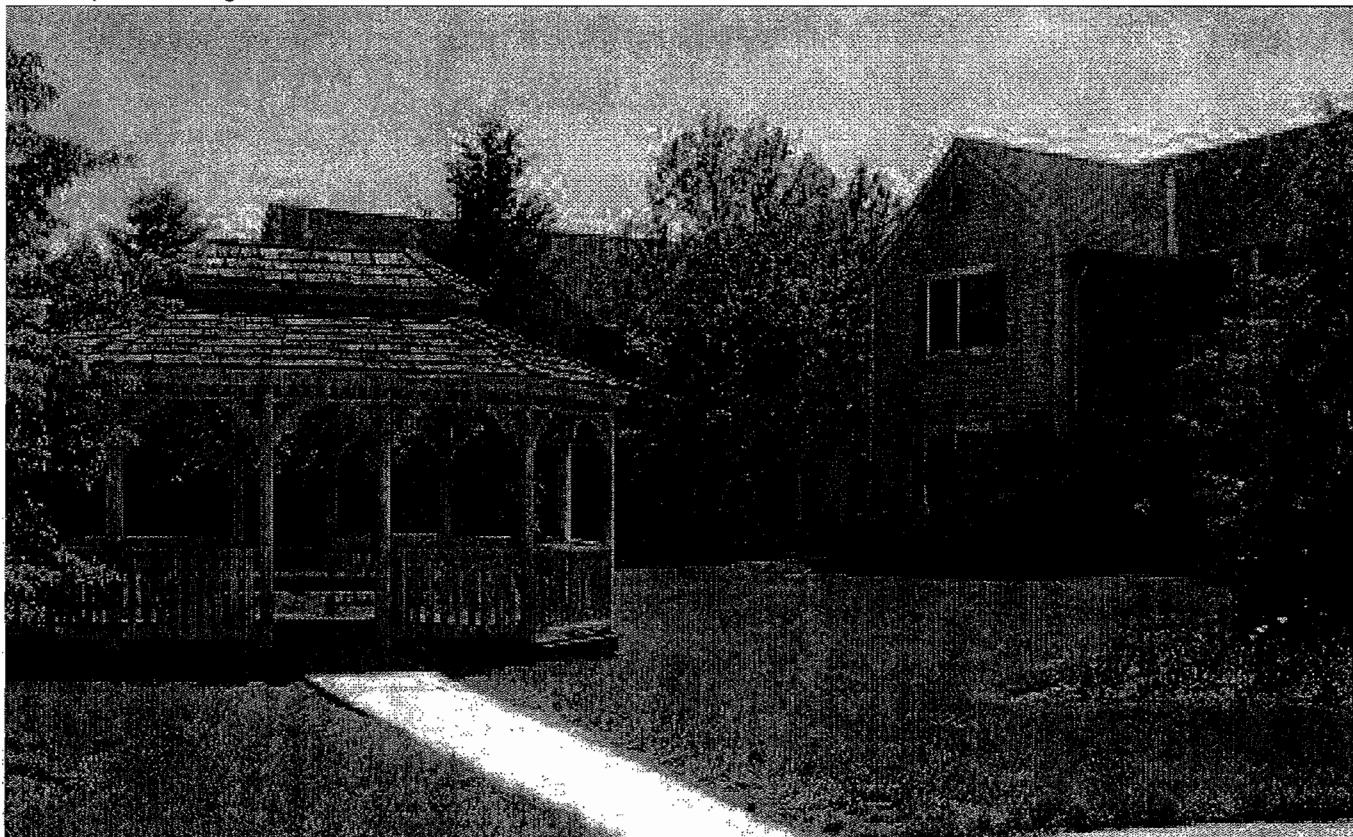
what happens when all of the market rate units are completed in an inclusionary development without the construction of any low—or moderate—income units? These are just two simple examples of how critical it is to make sure that what is built meets the obligation of what is planned. To do this, the MHL has to have a working knowledge, not only of the COAH rules, but of the municipal planning process and the cast of characters that are involved in that process. From the municipal planner to the planning and zoning boards and attorneys, to the construction officials, the MHL should be intricately involved to help coordinate the planning and implementation of the affordable housing units.

The same sort of knowledge and familiarity with the planning process is needed to implement any affordable housing program component that, by ordinance, carries an obligation for a development fee or "payments in lieu." What are the terms and conditions specified in the ordinance for the amounts and timing of payments? Are they being processed properly by the various departments that are involved? Is the construction office talking to the CFO's office to ensure strict adherence to the applicable rules?

The key here is to understand that before a single unit gets built, it is important that the MHL is involved in the development process to protect the interest of the town.

Responsibility for "Completed" Programs and Units During recent years, COAH has underscored the importance of on-going compliance to the affordable housing restrictions and commitments made by developers, landlords, owners and tenants of affordable housing. Certifying new residents of low—and moderate—income units, monitoring annual rent increases and re-sale prices are largely the responsibility of the Administrative Agent. Assuming that the MHL is not acting as the Administrative Agent, an essential task of the MHL is to ensure that the Administrative Agent has been delegated and is carrying out the delegation in a competent and timely manner. In cases where the Municipal Housing Liaison does act as the Administrative Agent, it is incumbent upon the MHL to have the requisite experience and/or training. In any case, the work here is largely perfunctory.

The real challenge for the MHL with respect to existing units arises when something out of the ordinary happens, the most common example of which would be that an affordable



For a smaller town, "Municipal Housing Liaison" might simply be another title given to the Borough Administrator or Township Clerk; while larger municipal organizations might already have an administrator to oversee and coordinate its affordable housing program.

housing unit goes into foreclosure. Depending on when and how the unit was restricted, there is a real possibility that the unit could be sold "out from under" the restrictions and the COAH credit lost forever.

To the extent possible, it is up to the municipality to have a plan in place to address such problems before they occur. As its representative, it is up to the MHL to know and understand the plan and who is on the bench of municipal professionals waiting to assist in its implementation. In the example of a pending foreclosure, the municipality might have an emergency assistance program funded through its housing trust fund. Or, if appropriate, the next call made by the MHL may be to the municipal attorney to prepare a response to the legal notice served to the city by the mortgage company. Either way, it is the MHL who must know when to act and who to contact.

The Local Team is Key to Success for the MHL In a recent workshop for which I served as a panelist, I was speaking to a group, composed primarily of tax assessors, collectors and CFO's. During our discussion, we spoke about

the importance for the tax collectors to know which properties in their portfolio are deed restricted affordable housing units. If one of those units appears on the list of delinquent accounts, the tax collector could act as the proverbial "canary in the coal mine" by contacting the MHL, and so begin the process of addressing potential problems or pending foreclosures. (Other local "canaries" might include utility companies and condominium associations.)

Like my prior examples, the ability of the MHL to act as "liaison" with yet another municipal team member, the tax collector, brings home the point that the "L" in MHL refers to much more than I first imagined. Moreover, the word, "liaison" actually does capture the role of the MHL to communicate and coordinate with municipal staff, boards and professionals regarding virtually all aspects of the Fair Share plan and compliance to that plan.

The MHL has taken on a wide variety of incarnations. For a smaller town, "Municipal Housing Liaison" might simply be another title given to the Borough Administrator or Township Clerk; while larger municipal

organizations might already have an administrator to oversee and coordinate its affordable housing program. In all of these situations, the successful MHL will be the person who has a keen grasp of the local players and the resources within the municipality. It will be the person with the ability to organize and utilize the gifts and talents already at work within that municipal center. ▲

Frank Piazza is the President of the Affordable Housing Professionals of New Jersey, an association of more than 100 Municipal Housing Liaisons, Administrative Agents, planners, attorneys and others who are involved in the development and monitoring of affordable housing throughout the State. He is also the President of Piazza & Associates, Inc., which serves as the Administrative Agent for properties in about 20 municipalities, and an instructor for the MHL certification that is provided for COAH by Rutgers University.

1 Until now, only a passing reference to a "liaison" was found in the Uniform Housing Affordability Controls (5:80-26.18), as that document discussed the requirement that Administrative Agents have a designated contact within the municipality to whom they are responsible.

2 N.J.A.C. 5:95-1.3

3 N.J.A.C. 5:95-17

4 N.J.A.C. 5:95-17.2

5 N.J.A.C. 5:95-17.1



A Professional Perspective

A publication of the
Affordable Housing Professionals of New Jersey

Volume 1, Issue 6

Summer, 2008

Inside this issue:

Tips for an Effective Program	1
First Meeting in South a Big Success	1
AHPNJ Board of Directors	2
A President's Perspective	2
Housing & Economic Recovery Act	2
Central Region Meets RE: Timely Topics	2
AHPNJ Charter Sponsors	3
AHPNJ Association News	4

Tips for an Effective Program by Frederick Raffetto, Esq.

For the last several years, I have had the opportunity and privilege to serve as counsel to Homes Now, Inc. ("Homes Now"), a non-profit entity based in Brick, New Jersey. Homes Now serves as the administrative agent for the Brick Township Affordable Housing Program. In that capacity, Homes Now, which is headed by Carol Wolfe, a former member of the Council on Affordable Housing Board, has been delegated all responsibilities for oversight and management of the Program, and has succeeded to all rights and privileges previously held by the Brick Township Affordable Housing Administrator and the Brick Township Affordable Housing Authority.

My work with Homes Now over the last several years has been an extremely rewarding experience, and it has taught me many things. However, I believe that one of the most important lessons that I have learned relates to the running of an effective affordable housing program. The key, I believe, is tied to

proactive oversight and management.


As a result of Homes Now's involvement, Brick Township has a thriving affordable housing program that runs very smoothly. Notably, the Township has yet to suffer the loss of even one affordable unit from its roster during Homes Now's watch.

The explanation for this is quite simple. Homes Now has assigned three staff members the part-time duties of performing continuous review of all of the Township's affordable units on a regular basis and takes action, including legal action when necessary, to protect the Township's interests. This review includes the maintenance of constant communication with home owners, observation and monitoring of the condition of all of the Township's affordable units, and review of all County-maintained Deeds, mortgages and other data relating to liens which affect affordable units.

... Continued on page 3

First Meeting in South a Big Success

Over 50 people attended the first Southern Regional Meeting of AHPNJ on August 19th at Cumberland County Community College in Vineland. The guest speakers for this diverse audience of housing professionals included Gina Fischetti, Esq., DCA Deputy Counsel and Doug McCollister, Esq., of Parker McCay. The topics, "Understanding U.H.A.C." and "Highlights of A-500 Assembly Bill" were timely and well-received.

This gathering was made possible by Gerard Velazquez, the Regional Vice President of the Southern Region, who was its host. 



... more photos are available on page 4

AHPNJ Annual Meeting

Thursday
October 23rd
10:00 a.m.
18th Fl. Conference Rm.
PNC Building, Rt. 18
East Brunswick

Featured Sponsor:





AHPNJ Board of Directors

Diane E. Clapp
Readington Township
Housing

Sharon Clark
Somerset Co. Coalition on
Affordable Housing

Arlyne DeSena
So. Brunswick Township
Housing Authority

Natasha Encarnacion
NJ Housing and Mortgage
Finance Agency

Randall Gottcsman, P.P.
CGP&H

Mary Beth Lonergan, P.P.
Clarke Caton Hintz

Kathy McGlinchy
New Jersey Council on
Affordable Housing

Colleen O'Hara
New Jersey DCA
Division of Housing

Christy Peacock
Princeton Township
Affordable Housing

Frank Piazza, Jr.
Piazza & Associates, Inc.

Susan Ucci
City of Elizabeth

Gerard Velazquez, III
Triad Associates

Linda White
Montville Township

Carol Wolfe
Homes Now, Inc.

Susan Zellman
Housing Partnership for
Morris County

A President's Perspective by frank piazza

Comings...

We recently learned that **Heather Mahaley**, the Director of the Housing Affordability Services (HAS), will be leaving her job at HMFA to join the staff of Plan Administration at the Council on Affordable Housing (COAH). Ms. Mahaley, who is a founding member of AHPNJ, has been a great help to all of us during her time at HAS. On behalf of all of our members, we welcome her to her new assignment at COAH and look forward to working with her in her new role!

and Goings...

As I am sure you know, **Barbara Walsh**, another founding member of AHPNJ, recently retired from her position as Manager of Plan Administration at COAH. Barbara's contribution to the Council was significant in her relatively brief tenure. More than anything, though, she helped people like me, who work in the proverbial trenches, feel as though we were part of the system. She added a bit of meaning to the daily grind, for which we are all grateful!



Housing and Economic Recovery Act of 2008 & Tax Credits

On July 30, 2008, President Bush signed into law the "Housing and Economic Recovery Act of 2008." Most of the news about this bill has centered on the assistance that is provided for certain households who are in danger of foreclosure, and the support provided to Fannie Mac and Freddie Mac. Less reported and discussed have been the provisions on the expansion of the Low Income Housing Tax Credit program and other housing and economic related features. In addition to increasing the available tax credits, the Act modifies the eligible basis rules, increases Qualified Allocation Plan requirements, alters annual recertification requirements, increases rehabilitation standards for

9% credits, exempts foster youth from provisions of the Student Rule, and modifies the sale requirements at year 15.

HMFA is continuing to review the changes under the Housing and Economic Recovery Act of 2008 and how such provisions will be implemented, including the provision for the elimination of the recertification requirement for 100% tax credit properties. This being the case, projects are strongly advised to continue the recertification process for residents until further notice.

The next compliance training provided by HMFA is anticipated for the Fall and will include the new regulations.



Central Region Meets to Discuss Timely Topics

The AHPNJ Central Region met on July 15, 2008 at LaScala Restaurant in Somerville, NJ from 11:30 am until 1:15 pm. The



group acknowledged many of the changes and issues happening in New Jersey regarding Affordable Housing. The meeting started with welcoming everyone and introductions. The group of approximately 20 members then reviewed and



discussed Initiatives, Bill A500 and its impact, COAH Round 3 and struggles towns are facing in order to submit their plans, Subordination Agreements, Developer Fees, Ordinances, Fees that others charge applicants and homeowners who sell/refinance, and much more.



Tips for an Effective Program (continued)

Homes Now is involved from the very beginning of the process of affordable home ownership. Representatives of Homes Now engage in a dialogue with all prospective purchasers and perform income qualification activities. During these early phases, and through to the time of closing and beyond, Homes Now representatives explain all facets of the Program to prospective owners. This dialogue necessarily includes the rights and obligations that come with ownership of an affordable unit. After closing, the dialogue continues with regular communication and oversight. And, where problems are detected, immediate proactive measures are taken.

For instance, within the last year, Homes Now detected that one of the Township's affordable units was being rented illegally at market rates, with the property owner residing elsewhere. Homes Now immediately stepped in and flexed its muscle, letting the unit owner know that this action represented a violation of the Deed Restrictions associated with ownership of this 95/5 unit and threatening to commence legal action if the violation continued. The property owner, who was represented by counsel, ultimately turned ownership of the unit over to Homes Now for nominal consideration and voluntarily ended her participation in the Program. Homes Now, in turn, paid off the existing liens against the property and thereafter re-sold the premises to another income-qualified applicant, depositing the excess funds generated from the sale into the Township's affordable housing trust fund to assist with future affordable housing activities. The unit remains part of the Program today.

A similar occurrence ensued with respect to another one of the Township's 95/5 units, but this time the violation was three-fold: the unit owner was operating his premises as a nuisance, known locally as a suspected "drug den," had allowed his home to fall into a grave state of disrepair, and moreover, had permitted the unit to slip into foreclosure proceedings. Homes Now initially worked with local law enforcement officials regarding the suspected illegal activities, and ultimately negotiated a resolution of the entire matter with the property owner and the

lender which benefited the Township. Homes Now acquired title to the premises from the owner, again for nominal consideration, and redeemed the outstanding mortgage prior to the entry of a Judgment of Foreclosure. After repair work was undertaken, the premises was re-sold to another income-qualified applicant. Once again, the excess funds generated from the sale were deposited into the Township's affordable housing trust fund and shall be used to assist with future affordable housing activities within the Township. The unit remains part of the Program today.

Finally, with respect to a third property, Homes Now representatives had detected that the homeowner had over-encumbered her unit with multiple mortgages that far exceeded the COAH re-sale value of the home, a clear violation of the Deed Restrictions governing the unit. After repeated attempts to amicably deal with the property owner were unsuccessful, Homes Now, through my office, filed a lawsuit in the Chancery Division of Superior Court in Ocean County against the homeowner and the various lenders. The litigation seeks to eject the homeowner from the premises for violating the Deed Restrictions, and also seeks to discharge and release the property from those unauthorized mortgages which exceed the amount permissible under applicable COAH regulations. The theory against the lenders is that they provided mortgages, notwithstanding the clear language contained within the recorded Deed Restrictions which prevents re-financing and the taking of additional mortgages (i.e., those beyond the first purchase-money mortgage), without prior approval from Homes Now. This lawsuit remains pending at the current time, but a settlement has been reached through which the unit will be relieved of any encumbrances which exceed the amount allowed under COAH guidelines. Per the settlement, although the homeowner will be permitted to remain in the premises, the unauthorized lenders will be left with unsecured loans against the homeowner which are no longer shown as encumbrances against the premises. As such, the unit remains protected.

... Continued on page 4



Our grateful appreciation to:

AHPNJ General Counsel

David A. Weinstein, Esq.
Archer & Greiner, PC

and

AHPNJ Sponsors

PNC Bank

RPM Development

Leewood
Real Estate Group

Penwal
Affordable Housing Corp.

Community Investment
Strategies

Clarke Caton Hintz
Architects - Planners

Lewis Chester
Insurance Agency

**For sponsorship or
membership
information see our
website
www.AHPNJ.org**

"A Professional Perspective" is published by the Affordable Housing Professionals of New Jersey as a service to its members, and does not constitute legal, financial or planning advice. Readers are urged to seek the services of a competent and qualified professional when applicable. © Copyright 2008, AHPNJ. All rights reserved.

AHPNJ is a membership organization that is dedicated to the educational, professional and ethical standards of those serving in New Jersey's affordable housing industry.

A publication of the Affordable Housing Professionals of New Jersey

Post Office Box 31
Raritan, NJ 08869

Email: info@AHPNJ.org



For membership information, visit us on the web, at www.AHPNJ.org.

Tips (Continued)

These are just a few examples of the measures that Homes Now has taken to protect and preserve the affordable housing inventory of Brick Township. Homes Now knows that creating new affordable units is costly and can be cumbersome. As such, each existing unit is considered to be a gem that should be closely guarded. Homes Now accomplishes this goal through hard work, including, most notably, proactive oversight and management.

Frederick C. Raffetto, Esq., is a partner at the firm, Ansell Zaro Grimm & Aaron, P.C., on the web, at www.ansellzaro.com.



**2008 GOVERNOR'S CONFERENCE
ON HOUSING AND COMMUNITY DEVELOPMENT**
BUILDING NEIGHBORHOODS ONE HOME AT A TIME

AHPNJ Association News

September 8th Seminar Sponsored by AHPNJ

Foreclosure Happens:

How NJ Towns are Preserving COAH Credits on Foreclosed Homes

Existing affordable homes throughout New Jersey are among those most threatened by the nation's foreclosure crisis. AHPNJ has convened a panel of leading attorneys to share their experiences and techniques. Real world cases representing many of the most common foreclosure scenarios will be discussed -- from a condo association foreclosing on nonpayment liens to an over-financed home under foreclosure. A moderator will lead the panelists through a discussion of the tools, techniques and legal decisions that were significant to their successful preservation of the COAH credits represented by these homes. The presentation will conclude with a question and answer session.

"Foreclosure Happens," sponsored by AHPNJ, will be held on September 8, 2008, from 10:00 a.m. to 12:30 p.m. at the New Jersey Housing and Mortgage Finance Agency, 637 Clinton Avenue, Trenton, New Jersey. The cost is \$10 for members and \$35 for non-members. For more information, contact Randy Gottesman at randy@cgph.net or 609/371-1937 ext. 12.

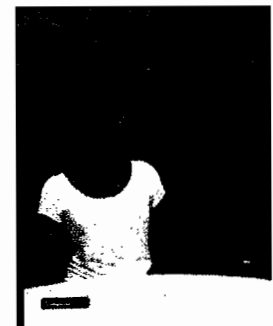
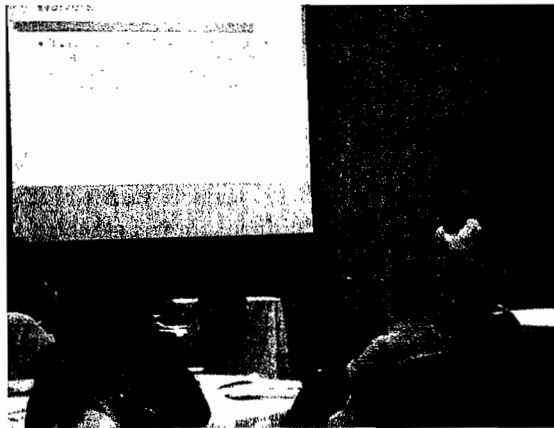
September 22nd & 23rd

2008 Governors Conference

on Housing & Community Development
at the Atlantic City Convention Center

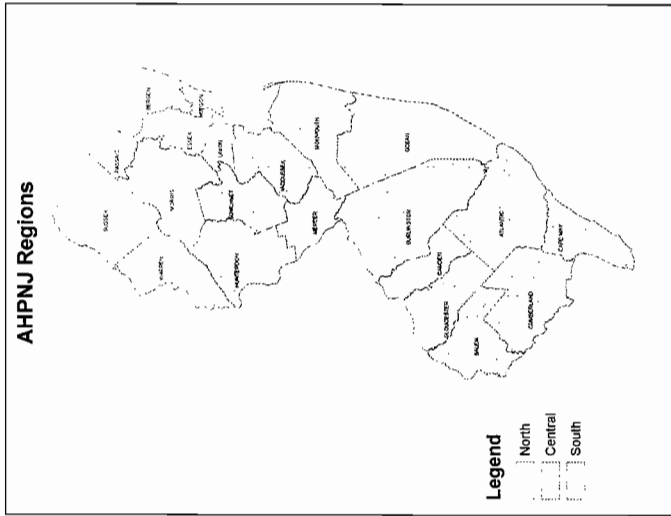
Visit our booth & win a free membership in AHPNJ!

More Photos of the Southern Regional Gathering



Clockwise from top left: UHAC presentation; Doug McCollister, answering questions from the floor; Gina Fischetti, DCA; and Gerard Velazquez, AHPNJ Regional VP and Host.

Statewide Regional Meetings In Your Area



Northern Region
Bergen, Hudson, Passaic, Sussex, Essex,
Morris, Union and Warren Counties

Central Region
Hunterdon, Middlesex, Somerset, Mercer,
Monmouth and Ocean Counties

Southern Region
Burlington, Camden, Gloucester, Atlantic,
Cape May, Cumberland and Salem Counties

**Quarterly Meetings for
Networking
Review Impending Legislation
Review UHAC Guidelines**

Who Are Affordable Housing Professionals?

- Apartment Owners
- Architects & Planners
- Federal & Public Agencies
- Managing Agents
- Affordable Housing Advocates
- Real Estate Developers
- Mortgage & Banking Attorneys
- General Contractors
- Government Officials
- Administrative Agents
- Municipal Liaisons
- Planning Boards
- Housing Authorities
- Property Managers

Are You Involved in Affordable Housing?

Do You Understand Affordability Controls?

Do You Want To See Industry Standards?

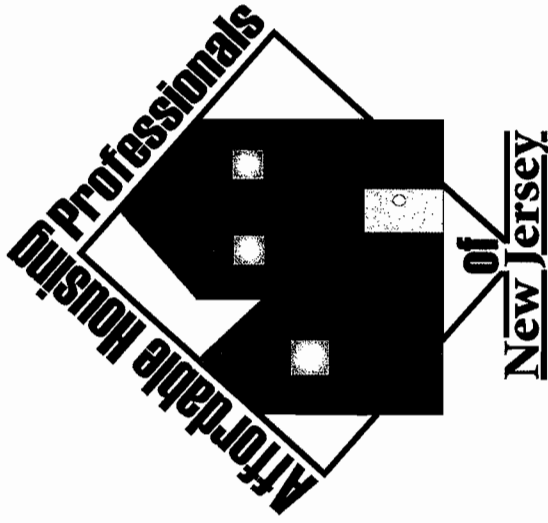
Do You Want a Voice in Regulatory Policy?

Come Join The

Affordable Housing Professionals of NJ



Contact AHPNJ at
info@ahpnj.org



Affordable Housing Professionals of New Jersey (AHPNJ)

is a private non-profit organization with the primary mission to:

- Establish and promote professional and ethical standards for individuals involved with affordable housing;
- Support an educational certification and accreditation program;
- Provide networking opportunities;
- Provide affordable housing related resources; and
- Advocate for the availability and improvement of affordable housing.

AHPNJ
PO Box 31
Raritan, NJ 08869

Visit our website at:
www.ahpnj.org



Membership Application

____ New member ____ Renewal

Name*: _____

Title: _____

Agency*: _____

Address*: _____

City*: _____

State*: _____ **Zip*:** _____

Phone*: _____

Fax: _____

Email*: _____

*REQUIRED FIELDS

Annual Membership Fee \$85.00

If received after June 30 initial memberships will extend through December 31st of the following year.

**Mail application and fee to:
AHPNJ, Box 31, Raritan, NJ 08069**

Which Region Would You Be Affiliated With

____ North ____ Central ____ South

Unless otherwise noted, below, members are automatically added to the AHPNJ "listserve," an email information system that provides periodic updates and discussion.

____ I DO ____ I DO NOT
want my name on the AHPNJ listserve.

Board of Directors

Diane E. Clapp
Readington Township Housing

Sharon Clark
Somerset County Coalition on Affordable Housing

ArlYne DeSena
Housing Authority, South Brunswick Township

Natasha Encarnacion
New Jersey Housing and Mortgage Finance Agency

Randall M. Gottesman, P.P.
CGP&H.

Mary Beth Lonergan, P.P
Clarke Caron Hintz

Kathy McGlinchy
New Jersey Council on Affordable Housing (COAH)

Coleen O'Hara
New Jersey DCA, Division of Housing

Christy Peacock
Princeton Township Affordable Housing

Frank Piazza
Piazza & Associates, Inc.

Susan Ucci
City of Elizabeth Community Development

Jerry Velazquez
Triad Associates

Linda White
Montville Township

Carol Wolfe
Homes Now, Inc.

Susan Zellman
Morris Housing Partnership

General Counsel
David A. Weinstein, Esquire
Archer & Greiner, P.C. Haddonfield, NJ

An Affordable Housing Professional is anyone who is involved with the administration of, or compliance with affordable housing rules and regulations in the State of New Jersey

The AHPNJ will be a voice for affordable housing in the State of New Jersey at both state and local levels.

