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**Summary, Report of Housing Opportunity Task Force**

Summary prepared by the NJ League of Municipalities.

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Report is online: [http://www.state.nj.us/governor/news/reports/pdf/20100323\\_COAH.pdf](http://www.state.nj.us/governor/news/reports/pdf/20100323_COAH.pdf)

**SUMMARY**

The Task Force outlines several housing reforms, providing for a long-term legislative solution. The report also provides a short term solution, by offering suggestions for “regulatory corrections” to the COAH regulations. The Task Force believes that the mandatory 10% set-aside will result in more affordable housing than has been produced through COAH, and do so at a lower costs to local governments.

**General Points:**

- Report proposes a “new model” to comply with the spirit and intent of the Mount Laurel decisions. The report does not outright call for the abolishment of the Council on Affordable Housing (COAH), but it is implied.
- The new model is intended to “make affordable housing a natural by-product of normal development...” (Page 20)
- Each municipality would have an obligation to address “present need.” The present need would be calculated currently.
- Municipalities, except for urban areas, would provide for future or “prospective need” by providing affordable housing equal to 10% of future residential growth. The affordable housing could be required on site as a set-aside, or provided by other means. The affordable housing would be provided in equal ratios for low and moderate income families. Prospective need would be determined from the present forward, and not retroactively.
- Emphasis would be shifted away from reliance upon new construction in favor of rehabilitation.

**Specific Points:**

- The Task Force recommends a 10% **prospective need** going forward (i.e. 1 of every 10 residential units shall be set aside for low and moderate families.) This will be based on residential growth projected by the State Planning Commission (SPC) or, “...a different authoritative source...” or a municipality’s own vacant land analysis.

- **Present Need:** Defined as “*substandard housing units in a municipality, which are in need of rehabilitation and are occupied by a household of low and moderate income.*” The determination of present need would not include past need. (Page 19)
- Urban areas would only need to address present need. Redevelopment areas, including brownfields and blighted areas, “should” be exempt from the 10% set-aside.
- Municipalities would be required to develop an “Affordable Housing Element” as part of the master plan.
- The County Planning Board would be authorized to conduct a hearing on the municipal plan to determine compliance and render a decision. If a municipality deviates from the SPC numbers, it would bear the burden of proof.
- If the County Planning Board determines a municipality’s plan is compliant, the approving resolution and the municipal plan is then filed with the SPC. The SPC then issues a letter of certification to the municipality. The issuance of the certification by SPC is designed to be a ministerial act, with any challenge to the plan to be initiated after County Planning Board review in the Law Division of the Superior Court based upon the record created at the County level. The municipality would be entitled to 10-year repose from the threat of a builder’s remedy lawsuit, and the Attorney Generals Office would be charged with defending the municipality against any future challenge.
- The Housing Mortgage Finance Agency (HMFA) would administer the procedural aspects of each municipality’s plan, including deed restriction, income qualification, etc.
- **Funding:** The Task Force recommends an impact fee on residential development in the short term. The Task Force calls for a long-term funding solution which does not rely on fees from developers. Municipalities should be authorized to enact an impact fee on residential development between 1% and 1.5%. This revenue may be used for present need, prospective need and administrative costs. Revenues unused after 4 years would be forfeited to the State Affordable Housing Trust Fund.

The Task Force recommends that the current level of funding from the Realty Transfer Fee be frozen at the fiscal year 2010 level. Any incoming funding above that amount be deposited into the Affordable Housing Trust Fund. (Page d35)

The Task Force recommends using the Realty Transfer Fee “...for either the debt service on publicly supported, long-term housing bonds or as ‘pay as you go’ “

Long term, the Task Force calls for the elimination of the impact fee and 100% on the Realty Transfer fee.

- Deed Restrictions:
  - “Apartments built as affordable units should be deed restricted for at least thirty years, but not more than the life of the building.” (Page 35)
  - “Houses built or acquired as affordable should be deed restricted for thirty years.” (Page 35)
  - “The Task Force believes a municipality should be able to receive credit for an affordable unit whether or not it is deed restricted.” (Page 36)
- Density Bonuses: *“The need for a bonus or incentive may be necessary in a voluntary system, such as we have had in the past, but is not necessary in a mandatory system...”* but *“...there should be some funding source or benefit beyond that cost available to make residential builders whole. This funding source could in the form of State tax credits, unallocated Realty Transfer Fee or other State designated sources. Density bonuses should only be necessary if the set aside rate exceeds 10%.”* (See Page 21)
- Means of compliance: Should include, among other mechanisms: transitional housing, accessory apartments/housing, group homes, dormitories, infill, write down/buy downs, apartments, manufactured housing, trailers, farm labor housing ECHO housing. Additionally, the Task Force calls for the reinstatement of regional contribution agreements (RCAs) and the use of transfer of development rights (TDR) as a compliance tool. (See Page 21)
- Need determination: The recent growth projections issued by the State Planning Commission, as part of the new draft State Plan, should be utilized as the presumptive numbers. The preparation of the State Plan and housing cycles should coordinate with the release of Census data. (See Page 21)
- Trust Fund Dollars: Existing funding in local trust funds could be used for any planning elements necessary for a municipality, including build-out or vacant land analysis. After the plan has been submitted to the SPC, the municipality may use remaining dollars for its present and/or prospective need. Funds unused after four years will be moved to the Affordable Housing Trust Fund for reallocation to other municipalities. (Page 34)
- UEZ and CRDA funding should be used for rehabilitation of housing stock within a municipality.