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Mayors Advisory

June 3, 2013

RE: Affordable Housing, COAH, Municipal Affordable Housing Trust Funds

Dear Mayor:

On Friday, May 31 the NJ Council on Affordable Housing (COAH) sent letters to municipalities, noting the NJ Supreme Court decision which kept in place the Appellate Division May 13 order prohibiting the State's seizure of municipal housing trust funds; however, the NJ Supreme Court allowed COAH "*...to proceed with gathering and evaluation municipal submissions.*"

COAH cites its original May 1 letter and requests municipalities submit to them, "*...any documentation and arguments as discussed in COAH's May 1, 2013 letter as soon as possible, but in any event no later than June 10, 2013.*" **The letter also states that you should not transfer any funding, per the Court stay.** While COAH can begin an administrative process of collecting information from municipalities, **it is prohibited, at this time, from the collection of any municipal housing trust funds.**

For more on the Appellate Division and NJ Supreme Court actions please see our May 29 letter at: <http://www.njslom.org/letters/2013-0529-AHTF.html>

On Wednesday, June 5 both the Fair Share Housing Center and the League will argue before the Appellate Division in support of keeping the stay in place. Both groups are parties in ongoing litigation challenging COAH's failure to adopt regulations pursuant to state statute (PL 2008, c. 46), awaiting the scheduling of oral argument.

In light of this Wednesday June 5 hearing, you may want to wait before submitting any documentation to COAH. Further, it may be in your municipality's best interest to wait until the June 10 COAH deadline to submit, as there may be other developments which could impact your submission.

Further, we would remind you, a July 2012 interim court order provides that a municipality shall have, "...the right to contest before COAH..." any transfer of funds. It may, therefore, be in your best interest to note that you intend to assert your rights for a hearing before the COAH board if the agency disagrees with your determination. We further note that a municipality retains the right of appeal of an unfavorable COAH determination directly to the Appellate Division.

Since each circumstance is unique, please consult your attorneys and professional staff as to how best to handle your response to COAH. Any questions or comments can be directed to Mike Cerra at mcerra@njslom.com or 609-695-3481 x120.

Very truly yours,

Janice S. Mironov, President
New Jersey State League of Municipalities,
Mayor, East Windsor Township

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