

Commissioner Grifa Testimony
Assembly Housing and Local Government Committee
Thursday, June 17th

All those assembled here recognize that the time has come to craft a meaningful solution to our State's affordable housing problem. In the past COAH has created a rigid, arcane and nearly unintelligible system that was virtually impossible to implement. The State dictated arbitrary quotas from Trenton with little success.

That system produced one court battle after another. The results were rarely certain and... as a consequence... there was a reluctance to build or approve the building or rehabilitation of housing.

Even as we sit here, there is a pending court decision looming. And as we prepare to give COAH a legislative send off, its final judicial dispensation remains unknown. That is fitting.

The Governor's goals are simple: 1/ End COAH and the madness of the arbitrary quota system that paid dividends to lawyers and planners, cost towns thousands of dollars and stymied sensible growth; 2/Empower municipalities to make their own decisions about land use and housing on a local level; and 3/ Create clear guidelines for affordable housing that encourage achievable results.

With all of this, it is our belief that exclusionary zoning is improper and no person should be denied access to safe and decent places to live – anywhere in our great state.

I am pleased to have spent time working with the Assembly and Senate sponsors in an effort to join the common themes between the Governor's goals and those set forth in S1, the legislature's initiative in this area.

The Governor and I are hopeful that as the legislative process draws to a close, the concepts we have reached agreement on get closer to becoming law.

I. What People Said About COAH

COAH provoked strong opinions.

"The State administrative process is cumbersome and costly." Sen. Lesniak

"COAH is heavy handed social engineering." - Americans for Prosperity

"COAH creates ghettos." – An anonymous blogger

"COAH is excessively complex and unworkable, resulting in delays, inefficiencies, litigation, and unreasonable costs to municipalities and the private sector without appreciable progress being made for our citizens" -- Governor Christie.

I couldn't agree more with the Governor's observation.

II. What The Towns Said About COAH

"The COAH process controls development and produces overdevelopment."

"A one size fits all approach to municipalities doesn't work."

"Growth share is too complicated."

"COAH is too focused on the suburbs."

"Regional application of the methodology is inequitable to municipalities with more affordable housing."

"The rehabilitation share for urban communities is unrealistic."

"There should be a "local preference" for the COAH units."

"COAH forces us to change our existing community."

There was some truth to all of these observations.

III. What DCA Knew Was Not Working

It was unfortunately and apparently clear that COAH and the Growth Share formula were not working. The link between affordable housing and market rate housing created density issues that were unduly burdensome to towns and in some cases, threatened the character of the community.

Among the other failures:

The continuing unmet need requirement dating back decades to an arbitrary quota system;

The rules were not flexible enough for common sense to prevail;

The program was grounded in conflicting data, which in turn undermined the process;

The complexity made it difficult for municipal officials to understand, much less explain to their constituencies;

The arbitrary unwillingness to credit pre-1980 constructed units, discouraged meaningful participation by older, built-out communities.

The New Affordable Housing Proposal

S1, as amended, and in particular, with some of the additional, technical changes discussed with Assembly staff, will be a simpler way for towns to provide affordable housing.

Once passed, it renders the COAH regulatory system a thing of the past – and more importantly, does not replace it with a new bureaucracy.

All towns will have an obligation to set aside some of their new development for low and moderate income housing.

Those towns that have previously complied with the existing regulations will be protected from frivolous lawsuits.

It ends state imposed calculations of affordable housing needs and restores control to municipalities.

Going forward, State involvement will be limited to providing an acknowledgment to municipalities seeking to be deemed inclusionary by the clearly set forth standards.

The definition of inclusionary development is in the bill.

Towns can assess existing housing stock to determine their needs presently.

Future need is simply addressed. Any new residential development will be subject to a simple 10% set aside for low and moderate income households; 5% for a small development under 10 units.

For the first time, towns will have a local preference option up to 25% of the newly created units.

Developers will no longer receive density bonuses and sprawl will be reduced.

Sensitive environmental land will be protected. The conflict between a failed housing policy and environmental policy is resolved – environmentally sensitive lands will not be burdened with unreasonable development requirements as they were under COAH.

Those with special needs – our most vulnerable citizens - will have priority.

Towns that previously petitioned for or received third round substantive certification from COAH will have the option to abide by their petitions. Those that obtained certification that choose to opt out may seek to do so. Those that would seek to abide by previously submitted, but uncertified petitions, have that option too.

If economically unfeasible, residential developers will pay a fee in lieu of building. Commercial developers will be exempt from a residential housing obligation.

Solutions are within our collective bipartisan and bicameral grasp

We are uniquely poised to address this conflicted issue. But the time is precious.

Unless we act, the economy-chilling non-residential developer fee resumes on July 1. There is discussion about extending the moratorium – that is not the answer. The time and opportunity for real and lasting reform is now.

Furthermore, the Court could render a decision in the December 2009 lawsuit that changes the law and undermines all of this collective work. Further delay is unnecessary and puts real reform at risk.

I am happy to take questions about S1 and proposed changes recently discussed.