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COURT INVALIDATES GALLOWAY'S ATTEMPT TO BUY OUT OF ITS AFFORDABLE HOUSING OBLIGATIONS

Court holds that K. Hovnanian's \$2.1 million RCA to avoid building housing for low and moderate-income families not supported by any factual justification

Trenton, New Jersey- In a decision released today, the Appellate Division of the New Jersey Superior Court invalidated a Regional Contribution Agreement (RCA) in which Galloway Township and K. Hovnanian attempted to pay Bridgeton \$2.1 million dollars instead of building 61 low- and moderate-income units as part of the 3100-unit Smithville development. This RCA was one of the last approved by the Council on Affordable Housing (COAH) before the Legislature passed legislation, Assembly Bill A500, to abolish RCAs in June.

"The Court held that New Jersey law prohibits COAH from rubber stamping big developers and wealthy towns paying out of their affordable housing obligations just so they can exclude low- and moderate-income people who work in their communities," Fair Share Housing Center (FSHC) Staff Attorney and Equal Justice Works Fellow Adam Gordon, who argued the case before the Appellate Division, said. "While the Legislature has put an end to this practice once and for all, the courts have further recognized that there were massive abuses of the system not even allowed under prior law."

The decision is the second court decision in a year to invalidate a RCA, following an Appellate Division decision in August 2007 invalidating a \$2.83 million RCA between Colts Neck and Long Branch.

The court found that COAH had approved the RCA without any substantive review of whether it met legal requirements, holding that "COAH failed to articulate any specific findings of fact to support its conclusions and approvals." Thus, the court invalidated COAH's October 11, 2006 approval of the RCA and sent the matter back to COAH. A500 states that COAH may not approve any RCA after the legislation becomes effective, effectively killing the RCA.

K. Hovnanian will have to build 61 low- and moderate-income units on a parcel set aside in case FSHC won the lawsuit. The units will still constitute under two percent of the Smithville development, one of the state's largest. The new homes will help ease Galloway's severe workforce housing shortage. The town has 25 percent more jobs than it has homes – leading to long commutes for workers at major employers such as AtlantiCare Regional Medical Center and Stockton State College.

"We anticipate that the invalidation of this RCA will lead to much-needed new housing opportunities in an area that has seen a massive escalation in housing prices," Gordon said. "This new housing should allow many workers who are currently driving 50 miles a day each way to live closer to jobs in Galloway or at the casinos, especially important in this era of rising gas prices."

Bridgeton, meanwhile, has other sources of funding for the homes available now that the RCA has fallen through. Mayor Jim Begley told the Atlantic City Press in a June 13 article, "We never were really counting on [the RCA]" and said that the city can "get the funding from private sources."

Fair Share Housing Center, founded in 1975, is the only public interest organization devoted entirely to defending the housing rights of New Jersey's poor through implementing the Mount Laurel doctrine.

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