



CONTACT: Kevin D. Walsh
856-665-5444
cell: 609-332-6244
kevinwalsh@fairsharehousing.org

BUILDERS, CIVIL RIGHTS LEADERS, LOCAL OFFICIALS CALL FOR STRONG ACTION TO BUILD NEW HOMES CLOSE TO JOBS, CUT MUNICIPAL RED TAPE

Proposal Being Considered in State Senate Would Roll Back 35 Years of Progress, Kill Jobs

Feb, 1, 2010 - Trenton, New Jersey- An unlikely set of allies including builders, civil rights leaders, and local government officials called for legislative leaders and Gov. Christie to promote new homes affordable to people at all income levels near New Jersey's job centers. The group noted that the proposal in the State Senate, S-1, does not promote homes close to jobs or transportation, nor does it address costly local government regulations that stop the development of new homes. The group also opposed the proposed return to Regional Contribution Agreements, a discredited system of promoting segregation outlawed by the Legislature in 2008.

The proposed legislation would absolve many of New Jersey's job growth centers — such as West Windsor, Mount Laurel, and Parsippany-Troy Hills — of the requirement to build homes. First-ring suburbs such as Kearny, Pennsauken, and Maplewood would be expected to shoulder more of the state's low- and moderate-income homes even as jobs continue to move to outer suburbs.

"This is a matter of fairness. Wealthy towns should do their fair share. Any legislation that says otherwise is irresponsible," said Rev. Eric Dobson, a member of the Pennsauken Board of Education.

"This entire bill is designed to reverse thirty-five years of progress, starting with the Mount Laurel decision," Colandrus "Kelly" Francis, the President of the Camden County NAACP, stated. "It protects and favors a few communities at the expense of the rest of New Jersey."

Developers emphasized their readiness to build homes affordable to a wide range of people, and that even a single medium-size building project could create hundreds of construction jobs. They noted the need for reform of municipal red tape, something not addressed by the current legislation.

"If we leave it to municipalities to self-certify their compliance, many towns would rather pay lawyers to fight than allow homes to be built or jobs to be created," Steve Needle, President of NeedlePoint Homes, a Westfield-based developer, said. "Developers like myself and many other builders that are hurting in this economy are ready to build market-rate and affordable homes for families and seniors, and create hundreds of jobs, if towns would just cut the red tape."

"Our first priority is the safety and education of our children," Deitra Chamberlain, who lives in Mount Laurel in a home built under the current laws, said. "And affordable housing has provided that opportunity in a community such as Mount Laurel, where we would otherwise not be able to live."

The legislation would undo common sense constitutional principles that have guided New Jersey's housing policies for thirty-five years, according to an analysis by Fair Share Housing Center (attached).

"When you want to achieve a goal, you measure progress towards that goal," Kevin Walsh, Associate Director of Fair Share Housing Center said. "This legislation would replace the state's concrete housing goals with an amorphous system in which towns could declare themselves compliant without any standards. This is not housing reform, this is the outright destruction of decades of progress. It doesn't get more unconstitutional than this."

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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Common Sense and The Constitution

February 1, 2010

The Senate Economic Growth Committee has scheduled a hearing on Monday at 10:30 a.m. in Trenton to discuss changes to the Fair Housing Act. The effort appears to be principally driven by wealthier municipalities that do not want affordable housing. Totally lost in the conversation thus far, and in the proposed legislation, is the constitutional nature of the *Mount Laurel* doctrine. As an organization that defends the common sense constitutional principles underlying the doctrine, we want to share our view of what has been proposed.

To begin with, it is important to note that although we have long fought for better housing policies and remain open to changes that actually improve how NJ provides housing opportunities, we are skeptical that Monday's hearing is motivated by a genuine interest to make housing affordable. Indeed, the legislation that is being discussed would turn the clock back 35 years to a time when municipalities could use heavy-handed government regulation to ensure housing for only the wealthy and exclude regular working folks. The legislation would free municipalities from any real standards and thus put them in control of whether they have an obligation at all. The legislation would also bring back regional contribution agreements, which were abolished in 2008, and eliminate requirements for very low income housing.

But, for purposes of discussion, let's assume that genuine progress is what is being discussed and consider what minimally must be done to meet the standards of *Mount Laurel* decisions in which the New Jersey Supreme Court required municipalities to provide their fair share of the region's need for affordable housing. To meet the standards of the *Mount Laurel* doctrine, legislation or regulations implementing the doctrine must include the following:

- *A check on municipal discretion.* Municipalities covet "home rule," but that tradition has made New Jersey one of the most racially- and economically-segregated states in the nation. The *Mount Laurel* doctrine requires municipalities to provide opportunities for housing even when they would prefer to close the door. Any system that lets municipalities calculate their own obligations is impermissible.
- *The elimination of municipal red-tape.* Governor Christie has made much of red-tape in state government, but the red-tape at the municipal level is one of the greatest impediments to housing affordability. Draconian land use regulations discourage development in even the areas of our state most appropriate for growth, such as major employment centers and areas

around train stations, which in turn drives up housing prices. The *Mount Laurel* doctrine prohibits municipalities from taking steps that interfere with the production of starter homes by adopting unnecessarily restrictive zoning and other policies.

- *Calculation of housing need for low- and moderate-income people.* The municipal obligation is based on the housing needs of the region for low- and moderate-income people. Together, municipalities in a region are required to adopt plans that meet the region's full need. Municipalities cannot limit the housing opportunities they provide to the need within their own borders.
- *Realistic opportunities.* Municipalities may not demand affordable housing be produced without providing some incentive to builders to make the opportunity realistic. This can be done without cost to municipalities through the adoption of zoning. Requiring that 20-percent of a development be set-aside as very-low, low- and moderate-income housing has been proven to work, given appropriate densities.
- *No preference based on residency.* The New Jersey Supreme Court long ago found that municipalities cannot favor their own residents over people living in the region because doing so reinforces the racial and economic segregation of our state.
- *Provide opportunities for families.* The *Mount Laurel* doctrine is principally geared toward providing opportunities for families with children, permitting them to leave low-opportunity municipalities to access opportunities, such as good schools, jobs, and transit, throughout the region.

Mount Laurel sets the minimum requirements of a constitutional land use scheme, but otherwise permits affordable housing policy to be made by the Legislative and Executive Branch. The elected branches thus have the discretion to ensure that our housing, environmental, and transportation policies are mutually supportive. We will continue to work to improve the existing system affordable housing system in NJ, including through the litigation before the Appellate Division in which we seek to increase the affordable housing need and further restrain municipalities from excluding lower-income households. We will insist that any changes that occur do not offend the progress made thus far in the Third Round and that the state government continue to enforce the laws that are on the books now. Our experience has been that delay frequently is used to interfere with affordable housing production and we thus must be vigilant that NJ's wealthy municipalities do not use the mere discussion of change as a basis for doing nothing.