

CHAPTER 92

SUBSTANTIVE RULES OF THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR THE PERIOD AUGUST 4, 1986 THROUGH JUNE 5, 1994

Authority

N.J.S.A. 52:27D-301 et seq., specifically 52:27D-307.

Source and Effective Date

R.2006 d.174, effective April 13, 2006.
See: 37 N.J.R. 4607(a), 38 N.J.R. 2120(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 92, Substantive Rules of the New Jersey Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, expires on April 13, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 92, Substantive Rules of the New Jersey Council on Affordable Housing, was adopted as R.1986 d.333, effective August 4, 1986. See: 18 N.J.R. 1124(b), 18 N.J.R. 1527(a).

Subchapter 14, Inclusionary Developments, and Subchapter 15, Affirmative Marketing Within Inclusionary Developments, were adopted as R.1986 d.479, effective December 15, 1986. See: 18 N.J.R. 2442(a).

Subchapter 16, Accessory Apartments, was adopted as R.1988 d.84, effective February 16, 1988. See: 19 N.J.R. 2089(b), 20 N.J.R. 385(b).

Subchapter 17, Rehabilitation of Indigenous Need, was adopted as R.1988 d.295, effective July 5, 1988. See: 20 N.J.R. 864(b), 20 N.J.R. 1539(b).

Pursuant to Executive Order No. 66(1978), Chapter 92, Substantive Rules for the Period August 4, 1986 through June 5, 1994, was readopted as R.1991 d.120, effective February 7, 1991. See: 22 N.J.R. 3671(a), 23 N.J.R. 688(b).

Subchapter 18, Development Fees, was adopted as R.1992 d.45, effective January 21, 1992. See: 23 N.J.R. 2813(b), 24 N.J.R. 235(a).

The Executive Order No. 66(1978) expiration date for Chapter 92, Substantive Rules of the Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, was extended by gubernatorial directive from February 7, 1996 to June 1, 1996. See: 28 N.J.R. 1378(a).

Pursuant to Executive Order No. 66(1978), Chapter 92, Substantive Rules of the Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, was readopted as R.1996 d.254, effective May 8, 1996. See: 28 N.J.R. 1455(a), 28 N.J.R. 2854(a).

Pursuant to Executive Order No. 66(1978), Chapter 92, Substantive Rules for the Period August 4, 1986 through June 5, 1994, was readopted as R.2001 d.80, effective February 7, 2001. See: 32 N.J.R. 4327(a), 33 N.J.R. 781(b).

Chapter 92, Substantive Rules of the New Jersey Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, was readopted as R.2006 d.174, effective April 13, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:92-1.1 Short title; purpose; scope

(a) The provisions of this chapter shall be known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994."

(b) The purpose of this chapter will be the crediting of past actions taken by municipalities in addressing their obligations to house low and moderate income households.

(c) These rules can be applied to all municipalities within the Council's jurisdiction.

Amended by R.1994 d.290, effective June 6, 1994.
See: 25 N.J.R. 5763(a), 26 N.J.R. 2900(a).

Case Notes

Regulations pertaining to determining municipal fair shares of low and moderate income housing were entitled to presumption of validity. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

Superior Court, Law Division had no authority to invalidate regulations of the Council on Affordable Housing dealing with determining municipal fair shares of low and moderate housing units. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

5:92-1.2 Severability clause

If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts of these rules. If a part of these rules is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

Case Notes

Invalid affordable housing regulations were severable. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the Fair Housing Act of 1985, L.1985, c.222 (C.52:27D-301 et seq.).

“Adjustment” means a reduction and/or deferral of the municipal low and moderate income housing obligation.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by L.1983, c.530 (C.55:14K-1 et seq.).

“Affordable” means a sales price or rent within the means of a low or moderate income household as defined in Subchapter 12, Controls on Affordability.

“Alternative living arrangement” means a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to, Class C boarding homes as regulated by the New Jersey Department of Community Affairs, residential health care facilities as regulated by the New Jersey Department of Health, group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services, and congregate living arrangements. All such facilities must be subject to controls on affordability acceptable to the Council.

“Approvable site” means a site that may be developed for low and moderate income housing in a manner consistent with the regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.

“Authority” means the entity designated by the municipality for the purpose of monitoring the occupancy, resale and rental restrictions of low and moderate income housing units.

“Available site” means a site with clear title, free of encumbrances which preclude development for low and moderate income housing.

“Census subregion” means a geographic subdivision of the State by the United States Bureau of the Census.

“Conversion” means the conversion of existing commercial, industrial or residential structures for low and moderate income housing purposes where a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households.

“Council” means the New Jersey Council on Affordable Housing established under the Act and which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State.

“Covered employment” means those employees covered by the New Jersey Unemployment Compensation Law, P.L. 1936, c.270, as amended, (C.43; 21-1, et seq.), and as

further described in *New Jersey Covered Employment Trends*, December 1985, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis.

“Covered employment change” means the yearly change in covered employment from 1977 through 1984 as measured by a linear regression equation.

“Deficient unit” means a housing unit that is not decent, safe or sanitary as further determined through census surrogates or on-site inspection and does not comply with local codes or other housing standards and is determined pursuant to the method described in N.J.A.C. 5:92-5.2.

“Developable site” means a site that has access to appropriate water and sewer infrastructure, and has received water consistency approvals from the New Jersey Department of Environmental Protection or its designated agent authorized by law to issue such approvals.

“Development fees” means money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in N.J.A.C. 5:92-18.

“Equalized assessed value” means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the tax assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.

“Exempt sales” means and shall include the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary; and the transfer of ownership by court order.

“Fair market value” means the unrestricted price of a low or moderate income housing unit if sold at a current real estate market rate.

“Fair Share Plan” means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in sections 9 and 14 of the Act.

“Gross density” means the total number of dwelling units existing or permitted on a housing site divided by the total

area of the tract. The result is expressed as dwelling units per acre.

"Growth area" means the lands so designated by the 1980 State Development Guide Plan as updated by the State Development Redevelopment Plan. "Growth area" shall also refer to lands designated as Regional Growth Areas and Pinelands Towns by the Pinelands Commission and areas designated as Development Regions and Extension Regions (including Central Corridor Barrier Islands) by the Division of Coastal Resources.

"Household" means the person or persons occupying a housing unit.

"Housing element" means that portion of a municipality's master plan consisting of reports, statements, proposals, maps, diagrams and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low and moderate income housing and which contains at least those items identified in section 10 of the Act.

"Housing Region" means a geographic area, determined by the Council, of no less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities and which constitute, to the greatest extent practicable, the Primary Metropolitan Statistical Areas (PMSA) as last defined by the United States Census Bureau prior to July 2, 1985.

"Inclusionary development" means a residential housing development in which a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households. The term may also mean housing developments comprised completely of low and moderate income units.

"Indigenous need" means deficient housing units occupied by low and moderate income households within a municipality and is a component of present need. Municipal indigenous need, as a percentage of the total 1987 occupied housing stock, shall not exceed the percentage derived from dividing the deficient housing units occupied by low and moderate income households by the total 1987 occupied housing stock for the housing region in which the municipality is located.

"Inventory" means that calculation undertaken by a municipality in developing its housing element which accounts for its housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households in substandard housing capable of being rehabilitated, as provided for in section 10a of the Act.

"Judgment of repose" means a judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.

"Low income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Moderate income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to or more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Multifamily unit" means a structure containing two or more dwelling units.

"Municipal present need" means the sum of indigenous need and the municipal share of reallocated present need.

"Net density" means the total number of dwelling units within a designated portion of a tract divided by the total land area of the designated portion of the tract, including the open-space, roadways, parking areas and common facilities devoted exclusively to that portion of the tract. The result is expressed as dwelling units per acre.

"Open-space" means any parcel or area of water or land essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space: provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

"Petition for Substantive Certification" means that petition which a municipality files, or is deemed to have filed, which engages the Council's mediation and review process.

"Present need" means the total number of deficient housing units occupied by low or moderate income households as of July 1, 1987. "Present need" is the sum of indigenous need and reallocated present need as determined by N.J.A.C. 5:92-5.5.

"Price differential" means the difference between the controlled unit sale price and the fair market value as determined at the date of a proposed contract of sale, after reasonable real estate broker fees have been paid.

"Priority" means a system of selecting applicants.

"Prospective need" means a projection of low and moderate housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as determined and further described in Subchapter 4, Estimated Present and Prospective Need, and Subchapter 5, Municipal Determination of Present and Prospective Need. In determining prospective need, consideration shall be given to approvals of development applications, real property transfers and economic projections prepared by the State Planning Commission established by P.L.1985, c.398 (N.J.S.A. 52:18A-196 et seq.).

"Reallocated present need" means that portion of a housing region's present need that is redistributed to designated growth areas.

"Receiving municipality" means, for purposes of a RCA, a municipality which agrees to assume a portion of another municipality's fair share obligation.

"Rehabilitated unit" means a previously deficient housing unit which has undergone significant renovation to meet municipal or other applicable housing code standards as further described in Subchapter 11, Regional Contribution Agreements (RCAs).

"Rehabilitation component" means the result of subtracting spontaneous rehabilitation from indigenous need.

"Repayment clause" means the obligation of a seller exercising a repayment option to pay 95 percent of the price differential to a municipality at closing for use in the municipal housing plan.

"Repayment option" means the option of a seller of a low or moderate income unit to sell a unit pursuant to N.J.A.C. 5:92-12.7 at fair market value subject to compliance with the terms of a repayment clause.

"Resolution of Participation" means a resolution adopted by a municipality in which the municipality chooses to prepare a fair share plan and housing element in accordance with the Act.

"Restricted" means restricted for occupancy by a class of individuals by virtue of legally enforceable conditions contained within a deed or other duly recorded document.

"Section 8 Income Limits" means a schedule of income limits that define 50 percent and 80 percent median income by household size. When used herein, Section 8 income limits shall refer to the "uncapped" schedule as contained in the Technical Appendix.

"Sending municipality" means for purposes of a RCA, a municipality which transfers a portion of its fair share obligation to another willing municipality.

"Set-aside" means the percentage of housing units devoted to low and moderate income households within an inclusionary development.

"State Development Guide Plan (SDGP)" means the officially recognized State plan for development, dated 1980, and promulgated by the New Jersey Department of Community Affairs pursuant to P.L.1961 c.47 (C.13:1B-15.52).

"State Development Redevelopment Plan (SDRP)" means the State plan for development promulgated by the State Planning Commission pursuant to P.L. 1985 c.398 (C.52:18A-196 et seq.).

"Statement of Intent" means a resolution adopted by a municipal governing body expressing an intent to enter into a RCA.

"Substantive certification" means a determination by the Council approving a municipality's housing element and fair share plan in accordance with the provisions of the Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

"Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in Subchapter 8, Municipal Adjustments.

"Surrogate" means a census indicator of deficient housing used in the calculation of present need as defined in Subchapter 5, Municipal Determination of Present and Prospective Need.

"Survey" means that independent determination of need undertaken by a municipality in preparing its housing element, which is developed and produced in a manner and in such form as is acceptable to the Council.

"Vacant land" means:

1. Undeveloped and unused land area;
2. Any non-residential areas with significant amounts of land not covered by impervious surfaces on site, as determined by the Council;
3. Land suitable for redevelopment or infill at higher densities; and
4. Residential areas with lot sizes in excess of two acres where environmental factors permit higher densities.

Amended by R.1988 d.295, effective July 5, 1988.

See: 20 N.J.R. 864(b), 20 N.J.R. 1539(b).

Added definition rehabilitation component.

Amended by R.1989 d.264, effective May 15, 1989.

See: 21 N.J.R. 595(a), 21 N.J.R. 1331(c).

In "Alternate living arrangement," added language regarding group homes for the developmentally disabled and mentally ill; added specifi-

cation that "All such facilities must be subject to controls on affordability acceptable to the Council".

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Added new definitions: "Authority," "Exempt sales," "Fair market values," "Price differential," "Repayment clause," and "Repayment option."

Amended by R.1991 d.412, effective August 5, 1991.

See: 23 N.J.R. 1488(a), 23 N.J.R. 2307(a).

Amended "rehabilitation component".

Amended by R.1992 d.45, effective January 21, 1992.

See: 23 N.J.R. 2813(b), 24 N.J.R. 235(a).

Definitions added for development fees and judgement of repose.

Case Notes

Affordable and market rate housing units in single development not compelled by Fair Housing Act. In re Township of Denville, 247 N.J.Super. 186, 588 A.2d 1248 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

In determining suitability of site proposed for low and moderate income housing units, consideration must be given to presumption of validity of municipal zoning ordinance. In re Township of Denville, 247 N.J.Super. 186, 588 A.2d 1248 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Reliance on State Development Guide Plan in allocating municipalities' obligation to provide fair share of low and moderate income housing was entitled to deference. Van Dalen v. Washington Tp., 120 N.J. 234, 576 A.2d 819 (1990).

Council on Affordable Housing had discretion to rely on State Development Guide Plan regarding municipalities' fair share obligation. Van Dalen v. Washington Tp., 120 N.J. 234, 576 A.2d 819 (1990).

5:92-1.4 Housing element

(a) A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing, and shall contain at least:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next six years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;

6. If a development fee is imposed pursuant to N.J.A.C. 5:92-18, a copy of the spending plan as required in (b) below;

7. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing;

8. The location and capacities of existing and proposed water and sewer lines and facilities relevant to the designated sites;

9. Copies of necessary applications for sewer service and water quality management plans submitted pursuant to Sections 201 and 208 of the Federal Clean Water Act, 33 U.S.C. § 1251, et seq.

10. A copy of the most recently adopted municipal master plan and where required the immediately preceding, adopted master plan;

11. A copy of appropriate National Wetlands Inventory maps provided by U.S. Fish and Wildlife Service for designated sites;

12. A copy of appropriate U.S.G.S. Topographic Quadrangles for designated sites; and

13. Any other documentation as may be required by the Council.

(b) If a municipality intends to collect development fees, it shall prepare a plan to spend development fees that includes the following:

1. A projection of revenues anticipated from imposing fees on development, based on historic development activity;
2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
3. A description of the anticipated use of all development fees;
4. A schedule for the creation or rehabilitation of housing units;
5. If the municipality envisions being responsible for public sector or non-profit construction of housing, a proforma statement of the anticipated costs and revenues associated with the development; and
6. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

Amended by R.1992 d.45, effective January 21, 1992.

See: 23 N.J.R. 2813(b), 24 N.J.R. 235(a).
 Spending plan added to (a)6 and (b)1-6.

New Rule, R.1992 d.53, effective February 18, 1992.
 See: 23 N.J.R. 3253(a), 24 N.J.R. 408(a).

5:92-1.5 Substantive certification

Any grant of substantive certification may contain such conditions and terms as the Council considers necessary and which makes the achievement of a municipality's fair share obligation realistically possible.

5:92-1.6 Interim substantive certification

(a) Any municipality that received substantive certification that expires prior to July 1, 1993 may file a motion, in accordance with N.J.A.C. 5:91-13, with the Council for interim substantive certification to be effective through July 1, 1993. In addition to the requirements set forth in N.J.A.C. 5:91-13, any motion shall include the municipality's housing element and fair share plan and a discussion of how the municipality has complied with the terms of its substantive certification, as well as any other additional information the Council may require. In filing the motion, the municipality shall provide notice to any objector or litigant that participated in the substantive certification process or court settlement.

(b) Upon motion from any such municipality, the Council will issue an interim substantive certification if the Council finds that the municipality has complied with the terms of its original substantive certification. In issuing interim substantive certification, the Council may impose any conditions it deems appropriate or necessary in order to insure continued compliance with the substantive certification and satisfaction of the fair share obligation, including, but not limited to, requiring the municipality to leave all ordinances implementing its original substantive certification in effect for the interim substantive certification period.

1. Any objector that participated in the initial Council administrative process resulting in the original grant of substantive certification, or party to exclusionary zoning litigation resulting in a judgment of repose in those cases where (c) or (d) below apply, may oppose the municipality's motion for interim substantive certification if that party contends that the municipality has not complied with the terms of its substantive certification.

(c) If a municipality received a judgment of repose that expires prior to July 1, 1993, the municipality should apply to the Court that issued the judgment for relief prior to the expiration of its judgment of repose. The Council will consider a motion for interim certification if the Court transfers the request to the Council. In such cases, the procedures and criteria set forth in (a) and (b) above shall apply.

(d) If a municipality's judgment of repose has expired prior to February 3, 1992 or thereafter expires before the Council issues new fair share obligations, a municipality may file a motion for interim substantive certification with the Council provided that no exclusionary zoning lawsuit has been filed against the municipality. The procedures and criteria set forth in (a) and (b) above, shall apply to applications made under this subsection.

SUBCHAPTER 2. HOUSING REGIONS

5:92-2.1 Regions defined

The housing regions of the State shall be composed of the following counties:

Region	Constituent Counties
1. Northeast	Bergen; Hudson; Passaic
2. Northwest	Essex; Morris; Sussex; Union
3. West Central	Hunterdon; Middlesex; Somerset; Warren
4. East Central	Monmouth; Ocean
5. Southwest	Burlington; Camden; Gloucester; Mercer
6. South Southwest	Atlantic; Cape May; Cumberland; Salem

5:92-2.2 Uses of regions

(a) The housing regions as set forth in N.J.A.C. 5:92-2.1 provide a definitive geographic base for the following uses:

1. The regions provide a housing market framework for determining population and household estimates and projections, as set forth in N.J.A.C. 5:92-3; and
2. The regions provide a framework within which estimates of the present and prospective need for low and moderate income housing may be made, as set forth in N.J.A.C. 5:92-4; and
3. The regions provide a structure for the allocation of fair share to the municipal level, as set forth in N.J.A.C. 5:92-5; and
4. The regions provide a basis for the negotiation of RCAs, as set forth in N.J.A.C. 5:92-11; and
5. The regions provide a framework for the appropriation of State funds made available under section 20 of the Act.

SUBCHAPTER 3. POPULATION AND HOUSEHOLDS

5:92-3.1 Purpose

This subchapter establishes population and household projections for the State and housing regions. These projections are drawn from the historical migration model, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, "Population Projections for New Jersey and Counties: 1990 to 2020, Volume 1, November 1985." See: Technical Appendix.

5:92-3.2 Population and household estimates and projections

The Council establishes the following population and household estimates and projections for the State and housing regions:

Region	Population		
	April 1 1980	1987	July 1 1993
1. Northeast	1,849,900	1,845,841	1,820,525
2. Northwest	1,879,100	1,880,134	1,880,199
3. West Central	971,700	1,021,999	1,057,058
4. East Central	849,400	945,499	1,046,059
5. Southwest	1,342,000	1,418,557	1,484,565
6. South-Southwest	473,900	507,749	542,858
New Jersey	7,366,000	7,619,779	7,831,264

Region	Households		
	April 1 1980	1987	July 1 1993
1. Northeast	663,080	693,661	704,281
2. Northwest	647,760	679,679	703,785
3. West Central	323,880	366,051	397,744
4. East Central	299,360	356,037	412,151
5. Southwest	454,280	510,636	555,293
6. South-Southwest	172,960	193,974	214,628
New Jersey	2,560,320	2,800,038	2,987,882

Source: The April 1, 1980 population and household estimates have been aggregated from the 1980 New Jersey Public Use Sample, U.S. Census Bureau.

SUBCHAPTER 4. ESTIMATED PRESENT AND PROSPECTIVE NEED

5:92-4.1 Need

The Council establishes the following estimation of present and prospective need for low and moderate income housing at the State and regional levels:

1987-1993 Present and Prospective Need (Statewide and by Region)

Region	Need
1. Northeast	42,534
2. Northwest	28,773
3. West Central	14,720
4. East Central	23,247
5. Southwest	21,884
6. South-Southwest	14,549
New Jersey	145,707

Case Notes

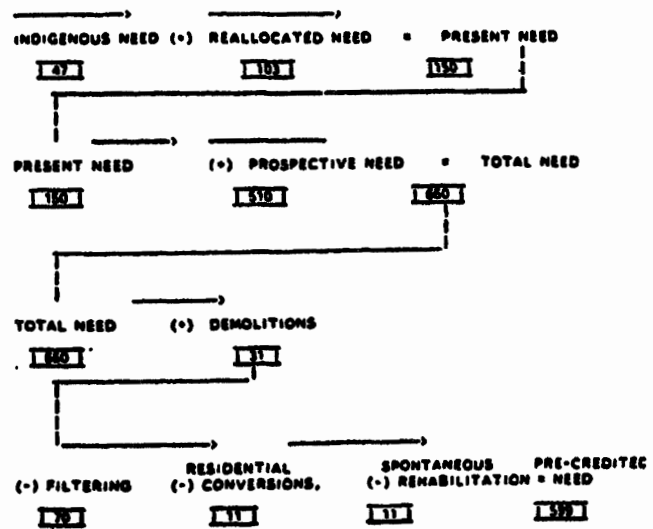
Period of repose was measure of useful life of township's obligation under regional contribution agreement. AQN Associates, Inc. v. Township of Florence, 248 N.J.Super. 597, 591 A.2d 995 (A.D.1991), certification denied 126 N.J. 385, 599 A.2d 162.

SUBCHAPTER 5. MUNICIPAL DETERMINATION OF PRESENT AND PROSPECTIVE NEED

5:92-5.1 General

(a) Municipal present and prospective need shall be calculated by summing municipal indigenous need and the municipal share of the appropriate housing region's reallocated present need and prospective need. The resulting total shall be modified for secondary sources of supply/demand as described in this subchapter (see Technical Appendix). The result of this process is the determination of municipal pre-credited need. This is the figure municipalities shall address in their housing elements. An example for Johnsonville is provided to illustrate each of the specified calculations. The following flow diagram summarizes the sequence of calculations enroute to the determination of pre-credited need.

FLOW DIAGRAM FOR THE CALCULATION OF LOW- AND MODERATE-INCOME HOUSING NEED Using The Johnsonville Example



(b) Exhibit 1 in the Technical Appendix provides municipal-specific base data that may be employed to determine municipal present and prospective need. Data for a hypothetical municipality, "Johnsonville," precedes the municipal base data for illustrative purposes. Exhibit 2 in the Technical Appendix duplicates the base data for each housing region that is presented in Columns A through I in this subchapter.

(c) The data contained in Exhibit 1 shall be used by parties appearing before the Council unless it can be shown that more appropriate data exist that justify a substitution. The Council shall determine, based on the documentation presented, which data shall be used to determine municipal present and prospective need.

(d) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.S.A. 52:27D-178 et seq.) as defined in N.J.A.C. 5:92-5.3(b) shall calculate municipal pre-credited need as per the procedures delineated in N.J.A.C. 5:92-5.13.

(e) Filtering, residential conversions and spontaneous rehabilitation estimates by housing region as expressed in this subchapter differ slightly from those presented in the Technical Appendix. This is because a municipality's total pre-credited need cannot be reduced below zero. Therefore, if the reduction to pre-credited need due to filtering, residential conversions and/or spontaneous rehabilitation reduces municipal pre-credited need to less than zero, the need for this municipality is maintained at zero.

Case Notes

Reliance on State Development Guide Plan by Council on Affordable Housing regarding municipalities' fair share obligation was entitled to deference. *Van Dalen v. Washington Tp.*, 120 N.J. 234, 576 A.2d 819 (1990).

Council on Affordable Housing had discretion to rely on State Development Guide Plan regarding extent of municipalities' fair share obligation. *Van Dalen v. Washington Tp.*, 120 N.J. 234, 576 A.2d 819 (1990).

Regulations for determining municipal fair shares of low and moderate income housing units entitled to presumption of validity. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

Superior Court, Law Division not authorized to invalidate regulations determining municipal fair shares of low and moderate income housing units. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

5:92-5.2 Indigenous need (as of 1987)

(a) Indigenous need in a municipality is actual or capped deficient housing occupied by low and moderate income households as further defined in 5:92-1.3. Municipal indigenous need shall be determined from the total of deficient housing units occupied by low and moderate income households for the census subregion in which the municipality is located. The data, derived from a multiple-index approach, are not available at the municipal level. To determine the municipal share of need from the census subregion total, it is necessary to use a single-index approach using surrogates of deficient housing available at both the municipal and census subregion level. To calculate municipal indigenous need:

1. Locate the appropriate municipality in Exhibit 1 in the Technical Appendix. Example: Johnsonville in Region 5 (Southwest).
2. Divide Column 2 (municipal single-index need) by Column 3 (subregional single-index need). The resulting percentage yields the municipal share of the census subregion's total of deficient housing units occupied by low and moderate income households. Example:

$$\text{Johnsonville single index need} = 144/984 = .146.$$

$$\text{Subregional single index need}$$

3. Multiply the result of the quotient obtained in (a)2 above by the number in Column 1 (subregional multiple index need). Example:

Subregional Multiple Index Need		Municipal Share of Need		
323	×	.146		= 47

This is the count of actual low and moderate income deficient units in a municipality.

4. Column A, below, displays the percentage for each housing region that is obtained by dividing the actual deficient housing units occupied by low and moderate income households in the region by the estimated total of 1987 occupied housing units in the region.

COLUMN A

1987 Regional Average Percent Deficiency

Region	Percent Deficiency
1. Northeast	.075
2. Northwest	.047
3. West Central	.025
4. East Central	.015
5. Southwest	.026
6. South-Southwest	.042

Multiply this percentage by the municipal projection of 1987 occupied housing stock in Exhibit 1, Column 4. Example:

Johnsonville Total Occupied Housing Estimate		Region 5 Percentage of Low and Moderate Income Deficiency		
8,992	×	.026		= 232

5. Municipal indigenous need shall be the smaller number resulting from the calculations in 3 and 4 above. Example: Johnsonville's indigenous need = 47.

6. If the calculation in 3 above is larger than 4 above, the difference between the two shall be distributed throughout the housing region as reallocated present need as per N.J.A.C. 5:92-5.3 and 5:92-5.4. The results of this calculation are displayed for each housing region in Column B.

(b) Municipal indigenous need may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

Case Notes

Council on Affordable Housing responsible for determining whether identifiable needy households should be considered in calculation of indigenous or regional need for affordable housing. In re Township of Warren, 132 N.J. 1, 622 A.2d 1257 (1993).

5:92-5.3 Distribution of need

(a) The distribution of each housing region's reallocated present need and prospective need shall be accomplished through use of economic and land use factors expressed as a percentage representing the municipal share of the housing region's total for each factor, as displayed in Exhibit 1 of the Technical Appendix. The factors employed to distribute the housing region's need are growth area (Column 5), covered employment (Column 6), aggregate per capita income (Column 7) and covered employment change (Column 8). All but covered employment change are summed, averaged and displayed in Column 9. This is the average of the present need allocation factors. All four economic and land use factors are summed, averaged and displayed in Column 10. This is the average of the prospective need allocation factors.

(b) Reallocated present need and prospective need shall be distributed to municipalities designated in whole or in part as growth areas unless the municipality receives state aid pursuant to P.L. 1978, C.14 (C.52:27D-178 et seq.) as of July 1, 1986 and exhibits one of the following (see attachment in Appendix A, Technical Appendix, infra for a listing of current selected urban aid cities that meet the following):

1. A percentage of actual housing deficiency to total occupied housing stock in excess of the same percentage for the region in which the municipality is located; or
2. A population density in excess of 10,000 persons per square mile; or
3. A density of 6,000 to 10,000 per square mile and less than five percent of vacant, non-farm municipal land as measured by the average percentage of vacant land valuation and parcels in the 1984 *Statement and Financial Condition of Counties and Municipalities* (Trenton, N.J.: New Jersey Department of Community Affairs, 1985).

(c) Only those municipalities designated herein to receive reallocated present need and prospective need shall be included in the housing region totals of growth area, covered employment, per capita aggregate income and covered employment change for purposes of distributing need.

Case Notes

Regulation that aggregate per capita income is factor in allocation of burden of low and moderate income housing was not inherently arbitrary or capricious. *Township of Bernards v. State*, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Regulation omitting vacant land as factor to determine distribution of low and moderate income housing not ultra vires. *Township of Bernards v. State*, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Council on Affordable Housing required to follow both Administrative Procedures Act and Open Public Meetings Act. *Township of Bernards v. State*, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Letter sent to newspapers by Council on Affordable Housing satisfied "adequate notice requirement" of the Open Public Meetings Act. *Township of Bernards v. State*, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-5.4 Reallocated present need

(a) Reallocated present need is the share of excess deficient housing which must be distributed to municipalities designated in whole or in part as growth area as delineated in N.J.A.C. 5:92-5.3. The following Column B displays the reallocated present need by housing region.

COLUMN B

1987 Regional Pool of Excess Deficient Housing Units

Region	Excess Deficient Housing Units
1. Northeast	17,676
2. Northwest	8,829
3. West Central	1,631
4. East Central	750
5. Southwest	4,060
6. South-Southwest New Jersey	1,465
	34,411

(b) Divide the municipal number in Column 9, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the total reallocated present need for the housing region in which the municipality is located to yield municipal reallocated present need. Example:

$$\begin{array}{rcl}
 \text{Regional Pool of Excess} & \times & \text{Average of Johnsonville's} \\
 \text{Deficient Units (Region 5)} & & \text{Present Need Allocation} \\
 4,060 & \times & \text{Factors (Column 9)} \\
 & & 2,549 \\
 & & 100 \\
 & & = 103
 \end{array}$$

Case Notes

Council on Affordable Housing responsible for determining if identifiable needy households should be considered in calculating indigenous or regional need for affordable housing. In re *Township of Warren*, 132 N.J. 1, 622 A.2d 1257 (1993).

Municipality failed to establish that regulations used to calculate municipal fair share low and moderate housing obligations imposed unfair burden. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

Decision regarding time period within which low and moderate income housing units was to be phased in was not arbitrary or capricious. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

5:92-5.5 Present needs (as of 1987)

Present need is the sum of indigenous need and reallocated present need. To determine municipal present need add indigenous need (as calculated in N.J.A.C. 5:92-5.2) and reallocated present need (as calculated in N.J.A.C. 5:92-5.4). Example: Johnsonville's present need = indigenous need (47) + reallocated present need (103) = 150.

Case Notes

Council on Affordable Housing responsible for determining if identifiable needy households should be considered in calculating indigenous or regional need for affordable housing. In re Township of Warren, 132 N.J. 1, 622 A.2d 1257 (1993).

5:92-5.6 Prospective need: 1987-1993

(a) Prospective need is the share of future households that are low and moderate income and as such require affordable housing (see Technical Appendix). Prospective need for each housing region is projected in the following Column C.

**COLUMN C
1993 Prospective Need**

Region	Prospective Need
1. Northeast	5,509
2. Northwest	9,759
3. West Central	13,661
4. East Central	23,752
5. Southwest	18,179
6. South-Southwest New Jersey	9,561 80,421

(b) To calculate municipal prospective need, divide the municipal number in Column 10, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the prospective need for the housing region in which the municipality is located to yield municipal prospective need. Example:

$$\begin{array}{r}
 \text{1993 Prospective Need} \\
 \text{(Region 5)} \\
 18,179
 \end{array}
 \times
 \begin{array}{r}
 \text{Average of} \\
 \text{Johnsonville's Prospective} \\
 \text{Need Allocation Factors} \\
 \text{(Column 10)} \\
 2,806 \\
 100
 \end{array}
 = 510$$

Case Notes

Council on Affordable Housing responsible for determining if identifiable needy households should be considered in calculating indigenous or regional need for affordable housing. In re Township of Warren, 132 N.J. 1, 622 A.2d 1257 (1993).

5:92-5.7 Total need

Total need is the sum of present and prospective need. To determine municipal total need, add present need (as calculated in N.J.A.C. 5:92-5.5) and prospective need (as calculated in N.J.A.C. 5:92-5.6). Example:

Johnsonville's total need = present need (150) + prospective need (510) = 660

5:92-5.8 Demolitions

(a) Demolition is a factor that eliminates housing opportunities for low and moderate income households. Therefore, a number representing demolitions affecting low and moderate income households shall be added to total need (see Technical Appendix.) To determine this number:

1. Average 1983 and 1984 municipal demolitions as reported in *New Jersey Residential Building Permits (1984 Summary)*. Example:

Johnsonville averaged 15 demolitions.

2. Multiply the average by six to project 1987-1993 demolitions. Example:

$$\begin{array}{r}
 \text{Johnsonville Average} \\
 \text{Demolitions} \\
 15
 \end{array}
 \times
 \begin{array}{r}
 \text{Number of Years} \\
 \text{Projected} \\
 6
 \end{array}
 = 90$$

3. To determine the percentage of demolitions affecting low and moderate income households, divide the percentage of low and moderate income households living in the census subregion in which the municipality is located (displayed in Exhibit 1, Column 11 in the Technical Appendix) by 100 and multiply the resulting quotient by 1.5. The percentage of demolitions affecting low and moderate income households shall be the result of this product or 95 percent, whichever is lower. Example:

$$\begin{array}{r}
 \text{Subregional Low and Moderate} \\
 \text{Income Percentage} \\
 23.3 \\
 100
 \end{array}
 \times 1.5 = .3495$$

4. Multiply the percentage of demolitions affecting low and moderate income households (calculated in 3 above) by the projected municipal demolitions (calculated in 2 above). The resulting number shall be added to total need. Example:

$$\begin{array}{r}
 \text{Percentage Demolition's} \\
 \text{Impacting Low and} \\
 \text{Moderate Income Households} \\
 .3495
 \end{array}
 \times
 \begin{array}{r}
 \text{Johnsonville's} \\
 \text{Projected} \\
 \text{Demolitions} \\
 90
 \end{array}
 = 31$$

5:92-5.9 Filtering

(a) Filtering causes a reduction in total need based on the recognition that the housing needs of low and moderate income households are partially met by sound housing units formerly occupied by higher income sectors of the housing market (see Technical Appendix). Filtering is highly correlated with the presence of multi-family housing units. The following Column D displays regional filtering projections. The following Column E displays the total number of multifamily housing units in each region in 1980.

Region	COLUMN D 1987-1993 Filtering Projection	COLUMN E 1980 Multifamily Unit Totals
1. Northeast	12,202	410,972
2. Northwest	12,678	334,839
3. West Central	7,222	104,428
4. East Central	6,706	73,799
5. Southwest	9,587	121,352
6. South-Southwest New Jersey	3,494 51,889	57,287 1,102,677

(b) To determine the impact of filtering on municipal total need:

1. Determine the municipal number of year-round multifamily units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example:

Johnsonville had 892 multifamily units.

2. Divide this number by the total of year-round multifamily units for the region (Column E) in which the municipality is located. This yields the municipality's share of multifamily housing units in the housing region. Example:

Johnsonville's Multifamily Units, 1980 892	+	Total Multifamily Units in 1980 (Region 5) 121,352	=	Johnsonville's Share of Multifamily Units .00735
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3. Multiply this percentage by the filtering estimates in Column D for the region in which the municipality is located to yield the reduction to municipal total need due to filtering. Example:

Johnsonville's Share of Region 5 Multifamily Units .00735	×	Filtering Projection Region 5 9,587	=	70
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5:92-5.10 Residential conversion

(a) Residential conversion is the creation of dwelling units from already existing residential structures. Residential conversion is a significant source of housing supply to low and moderate income households and it shall cause a reduction to municipal total need (see Technical Appendix). Residential conversion is highly correlated with the projections of conversions for each housing region. The following Column G displays the total of two-to-four-family housing units in each housing region in 1980.

Region	COLUMN F 1987-1993 Conversion Estimates	COLUMN G 1980 2-4 Family Unit Totals
1. Northeast	5,138	224,294
2. Northwest	3,257	165,631
3. West Central	1,048	50,697
4. East Central	662	29,269
5. Southwest	1,478	42,692
6. South-Southwest New Jersey	1,174 12,757	27,873 540,456

(b) To determine the impact of conversions on municipal total need:

1. Determine the municipal number of year-round two-to-four-family housing units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example: Johnsonville had 308 two-to-four-family units.

2. Divide this number by the year-round total two-to-four-family housing units for the region in which the municipality is located to obtain the municipal share of two-to-four-family housing units in the housing region. Example:

Johnsonville's Total 2-4 Family Housing Units 308	+	Total 2-4 Family Housing Units (Region 5) 42,692	=	Johnsonville's Share of 2-4 Family Housing Units .00721
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3. Multiply this percentage by the conversion projection in Column F for the region in which the municipality is located to yield the reduction to municipal total need due to conversion. Example:

Johnsonville's Share of 2-4 Family Housing Units .00721	×	1987-1993 Conversion Projections (Region 5) 1,478	=	11
---	---	---	---	----

5:92-5.11 Spontaneous rehabilitation

(a) Spontaneous rehabilitation measures the private market's ability to rehabilitate deficient low and moderate income housing units up to code standard; and shall cause a reduction to municipal total need (see Technical Appendix). Spontaneous rehabilitation is highly correlated with aggregate per capita income. The following Column H displays spontaneous rehabilitation projections by housing region. The following Column I displays total 1983/1984 per capita regional aggregate income for each housing region. Per capita regional aggregate income for 1983/1984 is obtained by multiplying 1983 regional per capita income estimates by 1984 estimated population in the housing region (see Technical Appendix).

Region	COLUMN H 1987-1993 Spontaneous Rehabilitation Estimates	COLUMN I 1983/1984 Aggregate Per Capita Income
1. Northeast	1,884	21,112,820,558
2. Northwest	1,194	22,029,857,240
3. West Central	384	12,235,480,836
4. East Central	243	9,830,614,791
5. Southwest	542	14,201,442,966
6. South-Southwest New Jersey	431 4,678	4,592,475,839 84,002,692,230

(b) To determine the impact of spontaneous rehabilitation on municipal total need:

1. Determine the municipal estimate of per capita income in 1983 from the 1986 *New Jersey Legislative District Data Book* (published by the Rutgers University Bureau of Government Research, April 1986). Example: Johnsonville's 1983 per capita income was \$12,975.

2. Multiply this number by the estimated municipal population as of 1984 as published in the 1984 *Population Estimates for New Jersey* (published by the New Jersey Department of Labor, September 1985). This yields municipal 1983/1984 aggregate per capita income. Example: Johnsonville's estimated population was 21,453. Calculation:

$$\$12,975 \times 21,453 = \$278,352,675$$

3. Divide 1983/1984 municipal aggregate per capita income by the 1983/1984 aggregate per capita income for the housing region in which the municipality is located (see Column I) to obtain the municipal share of aggregate per capita income.

Example:

Johnsonville's 1983/1984 Aggregate Per Capita Income \$278,352,675	+	Region 5 1984 Aggregate Per Capita Income (Column I) \$14,201,442,966	=	Johnsonville's Share of Aggregate Per Capita Income .01960
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4. Multiply the share of regional aggregate per capita income by the spontaneous rehabilitation projections for the housing region in which the municipality is located (see Column H in (a) above) to yield the reduction to municipal total need due to spontaneous rehabilitation.

Example:

Johnsonville's Share of 1983/1984 Aggregate Per Capita Income .01960	×	1987-1993 Region 5 Spontaneous Rehabilitation Estimate 542	=	11
---	---	---	---	----

5:92-5.12 Pre-credited need

Municipal pre-credited need is the sum of total need and demolitions minus reductions for filtering, conversion and spontaneous rehabilitation (see Technical Appendix). Example:

$$\begin{aligned} &\text{Total Need + Demolitions -} \\ &\text{(Filtering + Residential Conversion} \\ &\text{+ Spontaneous Rehabilitation)} \\ &660 + 31 - (70 + 11 + 11) = 599 \end{aligned}$$

5:92-5.13 Calculation of indigenous need: selected urban aid cities

(a) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.A.C. 52:27D-178 et seq.) that are exempt from the distribution of reallocated present need and prospective need as described in N.J.A.C. 5:92-5.3 (see Appendix A to Technical Appendix) shall determine their indigenous needs as indicated below:

1. Follow the procedures delineated in N.J.A.C. 5:92-5.2(a)1 through 3. These calculations yield the count of actual low and moderate income deficient units in the selected urban aid city. This estimate of low and moderate income deficient units may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

2. Modify the number calculated in (a)1 above as instructed in N.J.A.C. 5:92-5.8, 5.9, 5.10, and 5.11 (demo-

litions, filtering, residential conversions and spontaneous rehabilitation).

3. Perform the calculation required in N.J.A.C. 5:94-5.2(a)4.

4. Municipal indigenous need shall be the smaller number resulting from the calculations in (a)2 and 3 above.

5. If the calculation in (a)2 above is larger than (a)3 above, the difference between the two shall be distributed throughout the housing region as reallocated present need (see Technical Appendix).

6. This calculation of indigenous need for selected urban aid cities performed in (a)4 above is also the pre-credited need for these cities. No additional calculations need be made by these cities.

5:92-5.14 Low and moderate income split

At least half of all units devoted to low and moderate income households within inclusionary developments shall be affordable to low income households. At least half of all units in each bedroom distribution and half of all rental units shall be available for low income households. To the best extent feasible, at least half of all rehabilitated units shall be for low income households.

Repeal and New Rule, R.1988 d.27, effective January 4, 1988. See: 19 N.J.R. 1597(a), 20 N.J.R. 71(a).

SUBCHAPTER 6. CREDITS

5:92-6.1 Credits

(a) Municipal present and prospective fair share shall be determined after crediting, on a one to one basis, those housing units created or rehabilitated after April 1, 1980 that meet the criteria in N.J.A.C. 5:92-6.2 and 6.3.

(b) Low and moderate income housing units created within a municipality in excess of the municipal 1987-1993 present and prospective fair share, as calculated in subchapter 5, shall be credited on a one to one basis against its future fair share. This credit shall take place upon request during the substantive certification process, provided that such units have been restricted to low or moderate income households and the municipality has implemented adequate assurances for continued affordability consistent with Subchapter 12, Controls on Affordability.

(c) A municipality may receive credit for all qualified newly constructed units receiving certificates of occupancy and for all qualified rehabilitated units receiving final inspections as of the date of publication of the petition for substantive certification.

Amended by R.1987 d.123, effective March 2, 1987.

See: 19 N.J.R. 3(a), 19 N.J.R. 407(a).

(a)1 and 2 added.

Amended by R.1988 d.165, effective April 18, 1988.

See: 19 N.J.R. 1863(a), 20 N.J.R. 897(a).

In (a), added "The Council establishes ... eligible for crediting".

Amended by R.1988 d.566, effective December 19, 1988.

See: 20 N.J.R. 1673(b), 20 N.J.R. 3123(c).

Added (c).

Amended by R.1991 d.412, effective August 5, 1991.

See: 23 N.J.R. 1488(a), 23 N.J.R. 2307(a).

Deleted old and added new (a).

Law Review and Journal Commentaries

Affordable Housing—COAH—Fair Housing Act. P.R. Chenoweth, 134 N.J.L.J. No. 14, 52 (1993).

Case Notes

Effect of amendments to Fair Housing Act not basis for declaring statute unconstitutional. Non-Profit Affordable Housing Network of New Jersey v. New Jersey Council on Affordable Housing, 265 N.J.Super. 475, 627 A.2d 1153 (A.D.1993).

Amendments to Fair Housing Act not ultra vires. Non-Profit Affordable Housing Network of New Jersey v. New Jersey Council on Affordable Housing, 265 N.J.Super. 475, 627 A.2d 1153 (A.D.1993)

Rule of Council on Affordable Housing regarding determination of municipality's fair share of low and moderate income housing did not violate Fair Housing Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Council on Affordable Housing exceeded authority under Fair Housing Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Council on Affordable Housing required to follow both Administrative Procedure Act and Open Public Meetings Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Letter sent to newspapers by Council on Affordable Housing satisfied "adequate notice" requirement under Open Public Meetings Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-6.2 Rehabilitation

(a) Credits for rehabilitation shall not exceed the rehabilitation component and shall only be credited against the rehabilitation component.

(b) Units shall be eligible for crediting if rehabilitated up to applicable code standard between April 1, 1980 and the publication date of the petition for substantive certification, provided that:

1. Between April 1, 1980 and July 5, 1988, at least \$4,500 in capital costs was expended on a rehabilitated housing unit;

2. After July 5, 1988, an average of at least \$8,000 in capital costs was expended on a rehabilitated housing unit; and

3. The unit is currently occupied by the occupants who resided within the units at the time of rehabilitation, or by another eligible low or moderate income household as defined in N.J.A.C. 5:92-1.3.

New Rule, R.1991 d.412, effective August 5, 1991.

See: 23 N.J.R. 1488(a), 23 N.J.R. 2307(a).

5:92-6.3 New construction

(a) A housing unit created and occupied between April 1, 1980 and December 15, 1986 shall receive a credit if it is in sound condition and currently occupied by a low or moderate income household. In general, municipalities shall:

1. Document the date of construction with a certificate of occupancy date;
2. Verify the condition of the unit by an exterior inspection performed by a licensed building inspector; and
3. Document household income with the most recent Federal tax return.

(b) Municipalities that have received substantive certification prior to August 5, 1991 may apply and receive credit for housing units satisfying the criteria outlined above. These credits shall be applied to the municipality's next low and moderate income housing obligation.

(c) After December 15, 1986, a housing unit shall be eligible for a credit when a unit's occupancy is restricted to low or moderate income households and when the municipality has implemented adequate assurances for continued affordability consistent with N.J.A.C. 5:92-12, Controls on Affordability. All housing units that received preliminary approval after December 15, 1986 shall also conform to the requirements of N.J.A.C. 5:92-14 in order to receive a credit.

(d) A housing unit created and occupied after April 1, 1980 is also eligible for a credit when it has been developed under the auspices of a government-funded financed or otherwise assisted housing program designed specifically for households whose income does not exceed 80 percent of median income where the units if governed by controls on affordability that are substantially the same as those set forth in N.J.A.C. 5:92-12, Controls on Affordability.

New Rule, R.1991 d.412, effective August 5, 1991.

See: 23 N.J.R. 1488(a), 23 N.J.R. 2307(a).

SUBCHAPTER 7. DRASTIC ALTERATION OF THE ESTABLISHED PATTERN OF DEVELOPMENT

5:92-7.1 Drastic alteration

(a) After receiving the crediting provided in Subchapter 6, Credits, where a municipality's present and prospective fair share exceeds 20 percent of its total occupied housing stock as estimated as of July 1, 1987, the municipality may adjust its fair share to 20 percent of its estimated 1987 occupied housing stock.

(b) After receiving the crediting provided in N.J.A.C. 5:92-6, Credits, where a municipality's present and prospective fair share exceeds 1,000 low and moderate income housing units, the municipality may adjust its fair share to 1,000.

Amended by R.1987 d.314, effective August 3, 1987.
See: 19 N.J.R. 806(a), 19 N.J.R. 1431(a).

Added (b).

INVALIDITY ANNOTATION: See 23 N.J.R. 58(a).

N.J.A.C. 5:92-7.1(b) held invalid. *Calton Homes, Inc. v. Council on Affordable Housing, State of New Jersey, and the Township of Middletown*, N.J.Super., Dkt. No. A-3595-87T8 (App. Div. November 19, 1990).

Case Notes

Rule adopted by Council on Affordable Housing was not unreasonable exercise of Council's authority. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

Regulations adopted by Council on Affordable Housing did not violate Fair Housing Act. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

SUBCHAPTER 8. MUNICIPAL ADJUSTMENTS

5:92-8.1 General

This subchapter provides the criteria by which a municipal fair share may be adjusted. Adjustments shall be made to eliminate specific parcels of vacant land from consideration as sites for low and moderate income housing. Adjustments shall yield vacant, suitable, developable, available and approvable land within each municipality requesting and demonstrating that such adjustments to its fair share are in keeping with these criteria. Adjustments shall be made to municipal fair share when the Council determines that such adjustments are required due to available land capacity, public facilities or infrastructure. All municipalities requesting adjustments of present and prospective need shall submit an existing land use map at an appropriate scale to display the land uses of each parcel within the municipality. Such map shall display the following land uses: single family, two- to four-family, other multifamily, commercial, industrial, agricultural, parkland, other public uses, semipublic uses and vacant land. Municipalities seeking an adjustment based on historic sites, agricultural lands or environmentally sensitive areas shall submit transparent overlays drawn to the same scale as the existing land use map depicting those sites which the municipality maintains are inappropriate for development, as provided under this subchapter.

Case Notes

Trial court could cede jurisdiction over township's affordable housing obligations to the Council on Affordable Housing (COAH), even if such action effectively nullified some of township's affordable housing

responsibilities under prior judgement. *County of Morris v. Riverview Condominiums, Inc.*, 304 N.J.Super. 322, 700 A.2d 884 (A.D.1997.)

Council on Affordable Housing was required to follow mandates of both Administrative Procedure Act and Open Public Meetings Act. *Township of Bernards v. State, Dept. of Community Affairs*, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Letter sent to newspapers by Council on Affordable Housing satisfied "adequate notice" requirement under Open Public Meetings Act. *Township of Bernards v. State, Dept. of Community Affairs*, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Developer may question reliability of State Development Guide Plan as planning tool for determining township's growth area. *Van Dalen v. Washington Tp.*, 232 N.J.Super. 205, 556 A.2d 1247 (A.D.1989), certification granted 117 N.J. 631, 569 A.2d 1333, certification granted 117 N.J. 632, 569 A.2d 1333, affirmed in part, reversed in part 120 N.J. 234, 576 A.2d 819.

Factual questions regarding township's growth area to be resolved by mediation or by Council on Affordable Housing after adjudication in the Office of Administrative Law. *Van Dalen v. Washington Tp.*, 232 N.J.Super. 205, 556 A.2d 1247 (A.D.1989), certification granted 117 N.J. 631, 569 A.2d 1333, certification granted 117 N.J. 632, 569 A.2d 1333, affirmed in part, reversed in part 120 N.J. 234, 576 A.2d 819.

Site subject to a plan to construct inclusionary units in the backyards of existing structures was not suitable for inclusionary development and it was inappropriate to include site for purposes of determining fair share. *Petition for Substantive Certification of Fanwood Borough*, 92 N.J.A.R.2d (CAH) 1.

5:92-8.2 Adjustment process

(a) The Council shall only adjust reallocated present and prospective need which the municipality proposes to address through inclusionary developments. The Council shall not adjust indigenous need.

(b) The Council shall determine the amount and location of vacant and undeveloped land within a municipality. Specific parcels of vacant and developable lands shall be excluded as potential sites for low and moderate income housing based on the following criteria:

1. Historic and architecturally important sites shall be excluded if listed on the State Register of Historic Places prior to substantive certification. All land within a 100-foot buffer area of an eligible historic site as described herein shall similarly be excluded.

2. Agricultural lands shall be excluded when the development rights to these lands have been purchased or restricted by covenant or when such lands are subject to restrictions as set forth in the "Agricultural Retention and Development Act", N.J.S.A. 32 (N.J.S.A. 4:1C-11 et seq.), P.L.1983, c.32).

3. Environmentally sensitive lands shall be excluded as follows:

- i. Within the areas of the State regulated by the Pinelands Commission, Division of Coastal Resources and the Hackensack Meadowlands Development Commission, the Council shall adhere to the policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; the Coastal Permit Program Rules,

N.J.A.C. 7:7-1; Coastal Resource and Development Rules, N.J.A.C. 7:7E-1; and the Zoning Regulations of the Hackensack Meadowlands District, N.J.A.C. 19:4.

ii. In areas of the State not regulated by the Pine-lands Commission, the Division of Coastal Resources and the Hackensack Meadowlands Development Commission, municipalities may exclude as potential sites for low and moderate income housing: inland wetlands as delineated on the U.S. Fish and Wildlife Service National Wetlands Inventory; or as delineated on-site by the U.S. Army Corps of Engineers or New Jersey Department of Environmental Protection, whichever agency has jurisdiction; when on-site delineation is required by the Council; flood hazard areas as defined in N.J.A.C. 7:13; and sites with slopes in excess of 15 percent as determined from the U.S.G.S. Topographic Quadrangles which render a site unsuitable for low and moderate income housing. In cases where part of a site is unsuitable for low and moderate income housing because of floor hazard areas or inland wetlands, the Council shall not permit low and moderate income housing to be constructed on that unsuitable part of the site; provided however, that this regulation shall not prohibit construction of low and moderate income housing on the remainder of the site. In the case of slopes in excess of 15 percent, a municipality may regulate inclusionary development through a steep slope ordinance provided the ordinance also regulates non-inclusionary developments in a consistent manner. The Council reserves the right to exclude sites in whole or in part when excessive slopes threaten the viability of an inclusionary development.

iii. Where the legislature adopts legislation that requires the mapping of other natural resources and provides a mechanism for their regulation, the Council shall include such resources in its criteria and guidelines for municipal adjustment.

Amended by R.1987 d.123, effective March 2, 1987.

See: 19 N.J.R. 3(a), 19 N.J.R. 407(a).

(b)3ii added text "on the U.S. . . . delineated on-site".

Amended by R.1990 d.254, effective May 21, 1990.

See: 22 N.J.R. 730(a), 22 N.J.R. 1557(b).

Steep slope provisions added at (b)3ii.

Case Notes

Downward adjustment of number of lower income housing units which borough was required to provide was proper. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Calculation of municipality's obligation to provide lower income housing not subject to recalculation. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Compensation for downward adjustment of locality's lower income housing obligation not required. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Regulation indicating aggregate per capita income is factor in allocating burden of lower income housing was not arbitrary or capricious. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Regulation indicating that municipalities may reserve portion of total developed acreage for active municipal recreation was not arbitrary or capricious. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Regulation omitting vacant land as factor in determining distribution of need for lower income housing was not ultra vires. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-8.3 Adequate recreation, conservation and open space

(a) Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's policy regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also exclude from this calculation of total vacant and undeveloped lands, those owned by nonprofit organizations, counties and the state or federal government and when such lands are precluded from development at the time of substantive certification. Municipalities shall submit appropriate documentation demonstrating that such lands are precluded from development. Existing active municipal recreation areas shall be subtracted from the three percent calculation of total developed and developable acreage to determine additional land that may be reserved for active municipal recreation.

(b) Municipalities may exclude further recreation, conservation and open space areas, beyond those calculated in (a) above, when such lands have been designated in an adopted county master plan and:

1. The county has adopted appropriate language in its ordinances to secure specific areas for recreation, conservation or open space as part of the subdivision and site plan review process; or
2. The county has included specific areas for acquisition in a capital improvement program; or
3. The county has applied to the New Jersey Department of Environmental Protection Green Acres Program or other appropriate programs to acquire or otherwise permanently set aside specified areas.

(c) Municipalities shall submit a transparent overlay drawn to the same scale as the existing land use map depicting eligible county and municipal recreation, conservation and open space sites to be eliminated from consideration for low and moderate income housing.

Case Notes

Council on Affordable Housing required to follow both Administrative Procedure Act and Open Public Meetings Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Letter sent to newspapers by Council on Affordable Housing satisfied "adequate notice" requirement under the Open Public Meetings Act. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-8.4 Vacant sites

(a) Vacant sites not specifically excluded from consideration for low and moderate income housing as a result of the Council's policies regarding historic and architecturally important sites, agricultural lands, environmentally sensitive lands and recreation, conservation and open space shall be considered as potential sites for low and moderate income housing.

(b) The Council may, within its discretion and upon its own initiative, eliminate additional sites from consideration when the Council determines that such action is consistent with the public's general welfare.

(c) The Council shall determine the municipality's ability to absorb its fair share obligation through inclusionary developments. The Council shall presumptively require a 20 percent maximum set-aside and a minimum gross density of six units per acre on vacant and developable sites. The Council may modify this minimum gross density based on factors, including but not limited to, appraised land values, improvement costs, site conditions and municipal subsidy of project costs. The Council may also modify this density when required to satisfy the municipal present and prospective need or when the municipality and developer agree to a modification on a specific site or when the Council's minimum gross density policy conflicts with the land use policies adopted within the Pinelands, Coastal Zone or Hacksensack Meadowlands.

Amended by R.1988 d.335, effective July 18, 1988.

See: 20 N.J.R. 865(a), 20 N.J.R. 1689(b).

Added (d) through (f).

Amended by R.1989 d.534, effective October 16, 1989.

See: 21 N.J.R. 1185(c), 21 N.J.R. 3295(a).

Provisions made for deviations from presumptive requirements.

Amended by R.1992 d.45, effective January 21, 1992.

See: 23 N.J.R. 2813(b), 24 N.J.R. 235(a).

Text at (d)-(g) deleted.

Case Notes

Calculation of municipality's obligation to provide lower income housing is not subject to recalculation. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Compensation for downward adjustment in locality's lower income housing obligation not required. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Downward adjustment of number of lower income housing units which borough would be required to satisfy was proper. In re Borough of Roseland, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Inclusion of affordable and market rate housing units in a single development not required. In re Township of Denville, 247 N.J.Super. 186, 588 A.2d 1248 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Municipal inclusionary zoning measures must be adopted under duly promulgated regulations. Holmdel Builders Ass'n v. Township of Holmdel, 121 N.J. 550, 583 A.2d 277 (1990).

Exercise of rulemaking authority by Council on Affordable Housing regarding exclusionary zoning was incomplete. Holmdel Builders Ass'n v. Township of Holmdel, 121 N.J. 550, 583 A.2d 277 (1990).

Development fees used as inclusionary zoning devices had basis under the Fair Housing Act. Holmdel Builders Ass'n v. Township of Holmdel, 121 N.J. 550, 583 A.2d 277 (1990).

Regulation permitting municipalities to reserve portion of developed acreage for active municipal recreation was not arbitrary or capricious. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Regulation omitting vacant land as factor to determine distribution of region's need for lower income housing was not ultra vires. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Rule regarding minimum gross density of lower income housing was not arbitrary or capricious. Township of Bernards v. State, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

Voluntary "in lieu" development fee for construction of affordable housing sustainable. Holmdel Builders Ass'n v. Township of Holmdel, 232 N.J.Super. 182, 556 A.2d 1236 (A.D.1989), certification granted 117 N.J. 150, 564 A.2d 871, certification granted 117 N.J. 150, 564 A.2d 872, certification granted 117 N.J. 151, 564 A.2d 872, affirmed in part, reversed in part 121 N.J. 550, 583 A.2d 277.

Borough was not eligible for reduction to zero of its pre-credited low and moderate income housing need as several sites were available for development. Petition for Substantive Certification of Fanwood Borough, 92 N.J.A.R.2d (CAH) 1.

5:92-8.5 Adequate public facilities and infrastructure capacities

(a) The Council shall make durational adjustments to defer a municipality's fair share obligation due to the lack of adequate public facilities and infrastructure capacity. This adjustment shall remain totally or partially in effect until adequate infrastructure facilities are provided.

(b) Notwithstanding the lack of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (f) below.

(c) Notwithstanding the lack of adequate public facilities and infrastructure in extant at the time a municipality

petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available, for low and moderate income housing, on a priority basis.

(d) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(e) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development.

(f) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

Case Notes

Affordable housing regulations did not violate Fair Housing Act. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J. Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

Council rule that municipal zoning ordinance was subject to approval by Dept. of Environmental Protection was not improper delegation. *Township of Bernards v. State, Dept. of Community Affairs*, 233 N.J. Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

5:92-8.6 Prohibitive costs of infrastructure

(a) The Council shall make an adjustment to the municipal present and prospective need due to prohibitive costs associated with providing public facilities and infrastructure. This adjustment shall remain totally or partially in effect until adequate, affordable infrastructure facilities are provided.

(b) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (h) below.

(c) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available for low and moderate income housing on a priority basis.

(d) Municipalities seeking an adjustment of their fair share due to prohibitive costs of infrastructure to the public shall complete "The Costs of Providing Infrastructure" application provided by the Council and submit it to the Council for its review.

(e) The Council shall forward "The Costs of Providing Infrastructure" application to the New Jersey Department of Community Affairs Division of Local Government Services for review. The Council shall consider the report of the Division of Local Government Services in determining whether to permit an adjustment due to prohibitive costs associated with providing public facilities and infrastructure.

(f) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(g) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site for the development of low and moderate income housing in the housing element, the municipality shall permit such development.

(h) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

Case Notes

Council rule that municipal zoning ordinance was subject to approval by Dept. of Environmental Protection was not improper delegation. *Township of Bernards v. State, Dept. of Community Affairs*, 233 N.J. Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

SUBCHAPTER 9. PRIORITIZING

5:92-9.1 Prioritizing vacant and developable sites

(a) Municipalities shall establish priorities for low and moderate income sites. Sites should be available, suitable, developable and approvable as defined in N.J.A.C. 5:92-1.3.

(b) All sites designated for low and moderate income housing shall receive approval for consistency review, as set forth in Section 208 of the Clean Water Act, 33 U.S.C. § 1251, et seq. prior to substantive certification. Where a site is denied consistency review, the municipality shall apply for an amendment to its Section 208 plan to incorporate the denied site.

(c) Agricultural lands within agricultural development areas identified pursuant to N.J.A.C. 2:76-1 and certified by the State Agriculture Development Committee that do not conform to the policies set forth in N.J.A.C. 5:92-8.2(b)2 may be excluded initially in establishing priorities for low and moderate income sites. Where no other sites are either appropriate and/or sufficient to accommodate fully the municipality's low and moderate income housing obligation, the municipality or the Council may request the respective county agriculture development board to establish priorities for the development of unrestricted land within the county's agricultural development area.

SUBCHAPTER 10. PHASING OF PRESENT AND PROSPECTIVE NEED

5:92-10.1 Phasing plans

Municipalities may submit a phase-in plan for low and moderate income units within inclusionary developments as defined in the Act. Phasing plans shall indicate a proposed sequence for site-specific inclusionary developments. The following phasing schedules shall not apply to units constructed pursuant to Regional Contribution Agreements and units which are not within inclusionary developments.

5:92-10.2 Phasing schedules

(a) Municipalities may phase-in low and moderate income units within inclusionary developments pursuant to the following schedule:

1. Inclusionary developments of less than 999 units may be phased in over a period of six years;
2. The next 500 units, 1,000 units up to 1,499 units, may be phased in from the seventh through tenth year;
3. The next 500 units, 1,500 up to 1,999 units, may be phased in from the eleventh through fifteenth year;
4. An amount in excess of 2,000 units may be phased in over a period of 16 to at least 20 years.

(b) At least one-half and no less than 200 units of the municipal obligation shall be phased in during the first three years.

(c) Within the phasing schedule, market conditions shall prevail.

5:92-10.3 Commencement date of phasing schedule

The commencement date of the phasing schedule shall be January 1, 1987.

5:92-10.4 General provisions

(a) The phase-in schedule shall provide for the grant of preliminary approvals to a developer subject to the phase-in schedule for final approvals in accordance with time periods set forth in sections 34, 36 and 48 of P.L.1975; c.291 (N.J.S.A. 40:55D-46, 48 and 61), provided that such preliminary approvals shall confer vested rights as defined in subsection a. of section 37 of P.L.1975, c.291 (N.J.S.A. 40:55D-49) for the period until the developer has the ability to proceed to final approval pursuant to the phase-in schedule. In any phase-in schedule for a development, all final approvals and the rights to final approvals shall be cumulative.

(b) Phasing of present and prospective need shall not extend the period of substantive certification. Municipalities shall be responsible for an additional present and prospective need in addition to the phased need when the period of substantive certification expires.

(c) Within inclusionary developments, low and moderate income housing units shall be built in accordance with the following schedule:

Minimum Percentage of Low and Moderate Income Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	90
...	100

5:92-10.5 Priority of sites

In developing a phasing plan, municipalities shall give priority to those vacant sites that are available, suitable, developable and approvable as defined in subchapter 1. The phasing plan shall be consistent with a municipal plan for infrastructure expansion and rehabilitation.

5:92-10.6 Adjustments to phasing schedule

The Council may adjust phasing schedules by 20 percent for the first three years of the phasing period. An adjustment for the first half of the phasing period shall result in a proportionate adjustment during the second half of the phasing period. Such adjustments shall be based on the factors presented in section 23 of the Act or the effect of economic conditions on specific developments.

SUBCHAPTER 11. REGIONAL CONTRIBUTION AGREEMENTS (RCAs)

5:92-11.1 General provisions

(a) A municipality may propose the transfer of up to 50 percent of its fair share to another municipality within its

housing region by means of a contractual agreement into which two municipalities voluntarily enter.

(b) The Council shall maintain current lists of municipalities which have stated an intent to enter into RCAs as receiving municipalities and shall provide copies of such lists to potential sending municipalities as requested.

5:92-11.2 Terms

(a) At least 50 percent of the units accepted by a receiving municipality shall be affordable to low income households. The Council may modify this requirement if it determines that the sending municipality has adequately provided for its low income housing obligation elsewhere in its housing element.

(b) Housing provided pursuant to an RCA may include new construction, rehabilitation, residential conversion of existing units, conversion of other uses for housing, or a combination of these methods. To qualify as an appropriate component of a RCA, a rehabilitated or converted unit must meet the code standard of a municipality or other applicable housing code.

(c) Housing provided pursuant to a RCA may include the creation of alternative living arrangements. To qualify as an appropriate component of a RCA, such facilities must be subject to controls on affordability acceptable to the Council.

(d) All RCAs shall specify payment schedules which conform to a construction or rehabilitation schedule and which relate to the receiving municipality's ability to deliver housing units in a timely fashion.

(e) All RCAs shall require receiving municipalities to file annual reports with the Agency setting forth the progress in implementing the project to be produced under a RCA. This report shall be in such form as the Council and the Agency may from time to time require.

(f) All RCAs shall require that a receiving municipality submit a proposed project plan which shall be in such form and contain such information as the Agency may require.

(g) Sending and receiving communities shall, as part of their contract negotiations, determine the use of transferred funds that may be in excess of what is required to implement the RCA. Such funds shall either be: returned to the sending community; and/or utilized by the receiving community to produce additional low and moderate income housing units or for a capital expenditure ancillary to or benefiting low and moderate income households. The specific use of excess funds by the receiving community need not be specified in the RCA contract but shall be subject to Council approval.

(h) Housing units transferred via a regional contribution agreement may include age restricted housing units and alternative living arrangements provided that the sum of newly constructed age restricted units and alternative living arrangements created in the sending and receiving communities does not exceed 25 percent of the sending community's fair share obligation as calculated after credits and adjustments have been granted. This restriction shall not apply to the rehabilitation of existing age restricted units in either the sending or receiving community.

Amended by R.1988 d.440, effective September 19, 1988.
See: 20 N.J.R. 1140(a), 20 N.J.R. 2376(a).

Added subsection (g) and (h).
Amended by R.1989 d.264, effective May 15, 1989.
See: 21 N.J.R. 595(a), 21 N.J.R. 1331(c).

In (c), deleted language that included congregate housing, Class C and D boarding homes regulated by Department of Community Affairs, and residential health care facilities as examples of alternative living arrangements.

In (h), replaced "be age restricted" with "include age restricted housing units and alternative living arrangements."

5:92-11.3 Credits

No receiving municipality shall receive credit towards its fair share obligation for units provided pursuant to a RCA where credit for such units has been awarded to a sending municipality.

5:92-11.4 Review by county planning board or other county designated agency

(a) RCAs shall be reviewed by the County Planning Board or other county designated agency in which the receiving municipality is located, as set forth in N.J.A.C. 5:91-12.2. Such review shall be completed within 45 days after the agreement has been referred to the county planning board or other county designated agency. The Council may grant a timely request for an extension of this time period not to exceed 15 days.

(b) In conducting the review required under this section and N.J.A.C. 5:91-12.2, the county planning board or other county designated agency shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the SDRP. In the event that the SDRP is not completed, the county planning board or other county designated agency shall consider the SDGP and other appropriate regional plans in conducting its review.

(c) County planning boards or other county designated agency undertaking the review provided in this section shall, in forwarding the results of such review to the Council, include a completed checklist for this purpose provided by the Council. (see: Technical Appendix).

Amended by R.1988 d.566, effective December 19, 1988.
See: 20 N.J.R. 1673(b), 20 N.J.R. 3123(c).

Review days completed raised from "30" to "45".

5:92-11.5 Amount and duration of contributions

(a) In negotiating RCAs, cosmetic improvements may be included in determining the negotiated price of rehabilitating a housing unit; but cosmetic improvements alone shall not constitute an eligible improvement for purposes of a RCA. In general, eligible rehabilitation may vary in degree from gutting and extensive reconstruction to repairs for damage caused by inadequate maintenance. Rehabilitation may also include the repair or replacement of major building systems or components in danger of failure (including roof, electrical, plumbing, heating, structural and foundation defects). To be an eligible improvement under a RCA, the housing unit must meet the municipal or other relevant housing code after rehabilitation.

(b) The cost of rehabilitating a low and moderate income housing unit may vary from unit to unit and from municipality to municipality. The Council establishes \$10,000 as the minimum per unit cost necessary for rehabilitation as may be adjusted by the Council on a case by case basis. (See Technical Appendix for average costs of replacing major systems for various types of housing.) This minimum amount includes the actual capital cost of substantive rehabilitation and the necessary operating costs to insure compliance with related code standards. This minimum amount shall be regarded as illustrative.

(c) The internal cost of subsidizing a low and a moderate income housing unit in an inclusionary development may vary from project to project and from municipality to municipality. The Council establishes that \$12,500 represents the current average, internal subsidization required to provide a moderate income housing unit in an inclusionary development, and constitutes 22 percent of the unit's total cost. The Council establishes \$27,500 as the current average, internal subsidization required to provide a low income housing unit in an inclusionary development, and constitutes 48 percent of the unit's total cost. These internal subsidization guidelines shall be regarded as illustrative and may be adjusted on a case by case basis.

(d) RCAs shall run concurrent with the sending municipality's period of substantive certification, not to exceed six years; contributions may be prorated in municipal appropriations concurrent with the certification period not to exceed six years.

(e) All RCAs that include a scattered site rehabilitation program shall be structured so that the final transfer payment occurs within five years of the approval of the regional contribution agreement. All rehabilitation activity shall occur within the sending community's period of substantive certification. Rehabilitation schedules shall be structured for completion within five years of the approval of a regional contribution agreement. Rehabilitation schedules shall be subject to Council approval and shall not be structured to require a disproportionate share of rehabilitation during the latter portion of the five year period. This rule shall apply

to regional contribution agreements proposed by municipalities through executed memoranda of understanding subsequent to October 1, 1988.

Amended by R.1988 d.566, effective December 19, 1988.

See: 20 N.J.R. 1673(b), 20 N.J.R. 3123(c).

Added (e).

5:92-11.6 Enforcement

(a) The Council shall take such actions as may be necessary to enforce a RCA with respect to the timely implementation of a project by the receiving municipality. In implementing its enforcement responsibilities, the Council may:

1. Initiate or join a lawsuit to enforce a RCA; and/or
2. Bar a delinquent receiving municipality from entering into further RCAs for a specified period of time; and/or
3. Recommend that the Agency and the Department of Community Affairs withhold further assistance available under the Act; and/or
4. Take such other actions as the Council may determine necessary.

SUBCHAPTER 12. CONTROLS ON AFFORDABILITY
5:92-12.1 General provisions: new construction of sales units

(a) In developing housing elements, municipalities shall adopt measures to assure that newly constructed low and moderate income sales units remain affordable to low and moderate income households for a period of not less than 20 years. The authority shall do so by requiring all conveyances of newly constructed low and moderate income sales units subject to the Act to contain the restrictive covenant and mortgage lien adopted by the Council.

(b) Municipalities receiving State Aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) that exhibit one of the characteristics delineated in N.J.A.C. 5:92-5.3(b) shall adopt measures to assure that newly constructed low and moderate income sales units remain affordable to low and moderate income households for a period of not less than 10 years. The authority shall do so by requiring all conveyances of newly constructed low and moderate income sales units subject to the Act to contain the restrictive covenant and mortgage lien adopted by the Council.

Repeal and New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Section was "General provisions."

5:92-12.2 General provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sales units

(a) No municipality shall issue a certificate of occupancy for initial occupancy of a low or moderate income sales unit unless there is a written determination by the authority that the unit is to be controlled by a deed restriction and mortgage lien as adopted by the Council. The authority shall make such determination within 10 days of receipt of a proposed deed restriction and mortgage lien. Amendments to the deed restriction and lien shall be permitted only if they have been approved by the Council. A request for an amendment to the deed restriction and lien may be made by the authority, the municipality or a developer.

(b) No municipality shall permit the initial occupancy of a low or moderate income sales unit prior to issuance of a certificate of occupancy in accordance with (a) above.

(c) Municipalities shall, by ordinance, require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale and shall not issue such certificate unless there is a written determination by the authority that the unit is to be controlled by the deed restriction and mortgage lien required by the Council. Purchasers of low and moderate income sales units shall execute the deed restriction and mortgage lien prior to issuance of a certificate of occupancy regardless of whether the sellers had executed the deed restriction and mortgage lien adopted by the Council upon acquisition of the property. The authority shall make such determination within 10 days of receipt of a proposed deed restriction and mortgage lien.

(d) The certificate of reoccupancy shall not be required in sales for which controls are allowed to expire or in which the repayment option is being exercised pursuant to N.J.A.C. 5:92-12.3.

(e) The mortgage lien and the restrictive covenant shall be filed with the records office of the county in which the unit is located. The lien and restrictive covenant shall be adopted by the Council, unless amendments have been approved by the Council.

(f) The restrictive covenant, including the repayment clause, and the mortgage lien shall have priority over all mortgages on the property except for a first mortgage placed on the property by the mortgagee prior to the expiration of resale controls.

Repeal and New Rule, R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Section was "Length of controls on affordability."

5:92-12.3 Option to buy sales units

(a) The restrictive covenant governing the deeds of low and moderate income units shall include an option permitting purchase of the affordable housing unit at the maximum allowable restricted sales price at the time of the first non-exempt sale after controls on affordability have been in effect on the unit for the period specified in N.J.A.C. 5:92-12.1. The option to buy shall be available to the municipality, the Department of Community Affairs, the Agency, or a qualified non-profit as determined by the Council.

(b) All restrictive covenants governing low and moderate income units shall require the owner to notify the authority by certified mail of any intent to sell the unit 90 days prior to entering into an agreement for the first non-exempt sale after controls have been in effect on the housing unit for the period specified in N.J.A.C. 5:92-12.1.

(c) Upon receipt of such notice, the option to buy the unit at the maximum allowable restricted sales price shall be available for 90 days. The authority shall notify the municipality, the Department of Community Affairs, the Agency, and the Council that the unit is for sale. If the municipality exercises this option, it may enter into a contract of sale. If the municipality fails to exercise this option within 90 days, the first of the other entities giving notice to the seller of its intent to purchase during the 90 day period, shall be entitled to purchase the unit. If the option to purchase the unit at the maximum allowable restricted sales price is not exercised by a written offer to purchase the housing unit within 90 days of receipt of the intent to sell, the owner may proceed to sell the housing unit. If the owner does not sell the unit within one year of the date of the delivery of notice of intent to sell, the option to buy the unit shall be restored and the owner shall be required to submit a new notice of intent to sell 90 days prior to any future proposed date of sale.

(d) Any option to buy a housing unit at the maximum allowable restricted sales price shall be exercised by certified mail and shall be deemed exercised upon mailing.

New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.3, "Administrative mechanism" to new 12.11.
Administrative Correction to (b).
See: 21 N.J.R. 2475(a).

5:92-12.4 Municipal option

(a) Any municipality that elects to purchase a low or moderate income unit pursuant to N.J.A.C. 5:92-12.3 may:

1. Convey or rent the housing unit to a low or moderate income purchaser or tenant at a price or rent not to exceed the maximum allowable restricted sales price or rental for a period of up to 20 years; or
2. Convey the unit at fair market value subject to the provisions of (c) below.

(b) Municipalities that purchase low income housing units shall maintain them as low income housing units.

(c) Municipalities that elect to purchase low or moderate income housing units and convey them at fair market value shall:

1. Notify the Council of any proposed sale and sales price 90 days before closing;
2. Notify the Council of the price differential as defined in N.J.A.C. 5:92-1.3;
3. Deposit the price differential in a trust account devoted solely to the creation, rehabilitation or maintenance of low and moderate income housing; and
4. Notify the Council by February 1 of each calendar year of the balance within this trust account.

(d) Money deposited in trust accounts may not be expended until the municipality submits and the Council approves a repayment housing plan. The Council may approve the repayment housing plan if it determines that it provides a realistic opportunity for the creation, rehabilitation or maintenance of low and moderate income housing.

New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.4, "Initial pricing" to new 12.12.

5:92-12.5 State option

(a) When the Department of Community Affairs or Agency elects to purchase a low or moderate income unit pursuant to N.J.A.C. 5:92-12.3, it may:

1. Convey or rent the housing unit to a low or moderate income purchaser or tenant at a price or rent not to exceed the allowable restricted sales price or rental; or
2. Convey the unit at fair market value and utilize the price differential to subsidize the construction, rehabilita-

tion or maintenance of low and moderate income housing within the appropriate housing region.

New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.5, "Annual indexed increase" to new 12.13.

5:92-12.6 Non-profit option

(a) Non-profit agencies may apply to the Council at any time for the right to purchase low or moderate income units subsequent to the period of controls on affordability of up to 20 years.

(b) Non-profit agencies that have been designated by the Council shall be eligible to purchase low or moderate income units pursuant to N.J.A.C. 5:92-12.3 for the sole purpose of conveying or renting the housing unit to a low or moderate income purchaser or tenant at a price or rent not to exceed the allowable restricted sales price or rental. Low income units shall be made available to low income purchasers or tenants and the housing unit shall be regulated by the restrictive covenant and lien adopted by the Council. The term of the controls on affordability shall be the same as those required by N.J.A.C. 5:92-12.1.

New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.6, "Subsidy to ensure affordability" to new 12.14.

5:92-12.7 Seller option

(a) An eligible seller of a low or moderate income unit which has been controlled for the period established in N.J.A.C. 5:92-12.1, who has provided notice of an intent to sell, may proceed with the sale if no eligible entity as outlined in N.J.A.C. 5:92-12.3(c) and 5:92-12.6 exercises its option to purchase within 90 days.

(b) Subject to N.J.A.C. 5:92-12.8, the seller may elect to:

1. Sell to a qualified low and moderate income household at the controlled unit sales price in accordance with existing Council rules, providing the unit is regulated by the restrictive covenant and lien adopted by the Council for a period of up to 20 years; or
2. Exercise the repayment option and sell to any purchaser at market price, providing that 95 percent of the price differential is paid to the authority, as an instrument of the municipality, at closing.

(c) If the sale will be to a qualified low and moderate income household, the authority shall certify the income qualifications of the purchaser and shall ensure the housing unit is regulated by the restrictive covenant and lien required by the Council.

(d) The authority shall examine any contract of sale containing a repayment option to determine if the proposed sales price bears a reasonable relationship to the housing unit's fair market value. In making this determination, the

authority may rely on comparable sales data or an appraisal. The authority shall not approve any contract of sale where there is a determination that the sales price does not bear a reasonable relationship to fair market value. The authority shall make a determination within 20 days of receipt of the contract of sale and shall calculate the repayment option payment.

(e) The authority shall adopt an appeal procedure by which a seller may submit written documentation requesting the authority to recompute the repayment obligation if the seller believes an error has been made, or to reconsider a determination that a sales price does not bear a reasonable relationship to fair market value. A repayment obligation determination made as a result of an owner's appeal shall be a final administrative determination of the authority.

(f) The repayment shall occur at the date of closing and transfer of title for the first non-exempt transaction after the expiration of controls on affordability.

(g) Repayment proceeds shall be deposited in a trust account devoted solely to the creation, rehabilitation or maintenance of low and moderate income housing. Money deposited in trust accounts may not be expended until the municipality submits and the Council approves a repayment housing plan. The Council may approve the repayment housing plan if it determines that it provides a realistic opportunity for the creation, rehabilitation or maintenance of low and moderate income housing.

New Rule, R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.7, "Procedures of resale," to new 12.15.

5:92-12.8 Municipal rejection of repayment option

(a) A municipality shall have the right to determine that the most desirable means of promoting an adequate supply of low and moderate income housing is to prohibit the exercise of the repayment option and maintain controls on lower income housing units sold within the municipality beyond the period required by N.J.A.C. 5:92-12.1. Such determination shall be made by resolution of the municipal governing body and shall be effective upon filing with the Council and the authority. The resolution shall specify the time period for which the repayment option shall not be applicable. During such period, no seller in the municipality may utilize the repayment option permitted by N.J.A.C. 5:92-12.7.

(b) Municipalities that exercise the option outlined in (a) above shall:

1. Provide public notice in a newspaper of general circulation; and

2. Notify the authority and Council of its governing body's action.

The authority shall ensure that the deed restriction on all affected housing units reflect the extended period of controls.

New Rule, R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.8, "Eligible capital improvements," to new 12.16.

5:92-12.9 Continued application of options to create, rehabilitate or maintain low and moderate income units

When a housing unit has been maintained as a low or moderate income unit after controls have been in effect for the period specified in N.J.A.C. 5:92-12.1, the restrictive covenant governing the housing units shall allow municipalities, the State, non-profit agencies and sellers of low and moderate income units to again exercise all the same options as provided in this subchapter.

New Rule, R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified 12.9, "Impact of Foreclosure on resale," to new 12.17.

5:92-12.10 Rehabilitation, rentals, conversion of non-residential structure

(a) Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to affordability controls for at least six years.

(b) Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.

(c) Municipalities shall adopt measures to assure that low and moderate income rental units remain affordable to low and moderate income households for a period of not less than 20 years. Municipalities receiving state aid pursuant to P.L.1978, c.14 (N.J.S.A. 52:27D-178 et seq.) that exhibit one of the characteristics delineated in N.J.A.C. 5:92-5.3(b) shall adopt measures to assure that low and moderate income rental units remain affordable to low and moderate income households for a period of not less than 10 years.

(d) Housing units created through conversion of a non-residential structure shall be considered a new housing unit and shall be subject to controls on affordability as delineated in N.J.A.C. 5:92-12.1(a) and (b).

New Rule, R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 92(b), 21 N.J.R. 2020(a).

Recodified 12.10, "Excess proceeds upon foreclosure" to new 12.18.

5:92-12.11 Administrative mechanism

Municipalities shall establish an authority responsible for assuring that low and moderate income housing units remain affordable to low and moderate income households; or they shall enter into a contractual agreement with the Agency to administer these responsibilities.

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.3. Changed "appropriate administrative mechanism or entity" to "authority."

5:92-12.12 Initial pricing

(a) Municipalities shall require that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of 10 percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Municipalities shall, by ordinance, require that master deeds of inclusionary development regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at a specific percentage of those paid by market purchasers. Once established within the master deed, the percentage shall not be amended without prior approval from the Council.

(b) Municipalities shall require that rents, excluding utilities, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit (as contained in Appendix D) or other recognized standard adopted by the Council that applies to the rental housing unit.

(c) The following criteria shall be considered in determining rents and sale prices:

1. Efficiency units shall be affordable to one person households;
2. One bedroom units shall be affordable to two person households;
3. Two bedroom units shall be affordable to three person households;
4. Three bedroom units shall be affordable to five person households; and
5. Four bedroom units shall be affordable to seven person households.

(d) Municipalities that petition for certification after August 1, 1988 shall require that rents, including an allowance for utilities consistent with the personal benefit expense allowance for utilities as defined by HUD or a similar allowance approved by the Council, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size as outlined in (b) above.

(e) Housing units that satisfy the criteria in (a) through (d) above shall be considered affordable.

(f) Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD, as defined in N.J.A.C. 5:92-1.3 (see Appendix D) or other recognized standard adopted by the Council that applies to the rental housing unit.

Amended by R.1988 d.441, effective September 19, 1988.

See: 20 N.J.R. 1320(b), 20 N.J.R. 2376(b).

Added new (b); renumbered old (b)-(c) as (c)-(d).
Notice of correction: substituted "require" for "consider requiring" in (a).

See: 20 N.J.R. 3127(a).

Amended by R.1989 d.125, effective March 6, 1989.

See: 20 N.J.R. 3051(a), 21 N.J.R. 635(a).

Substantially amended.

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.4. In (b) and (f): changed "the Technical" to "Appendix D." In (f): changed "subchapter 1" to N.J.A.C. citation.

Case Notes

Fair Housing Act amendments were constitutional without evidence of dilutionary effect on statewide housing. *Non-Profit Affordable Housing Network of New Jersey v. New Jersey Council on Affordable Housing*, 265 N.J.Super. 475, 627 A.2d 1153 (A.D.1993).

Regulations which do not include affordability in determining availability of fair share credit were not ultra vires. *Non-Profit Affordable Housing Network of New Jersey v. New Jersey Council on Affordable Housing*, 265 N.J.Super. 475, 627 A.2d 1153 (A.D.1993).

5:92-12.13 Annual indexed increases while controls are in place

The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8 income limits, published by HUD, as defined in N.J.A.C. 5:92-1.3 (see Appendix D) or other recognized standard adopted by the Council that applies to the rental housing unit. However, in no event shall the maximum allowable price established by the authority be lower than the last recorded purchase price.

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.5.

Revised section title by adding "while controls are in place."

Changed "subchapter 1" to N.J.A.C. citation and "Technical" to Appendix "D."

Amended by R.1990 d.540, effective November 5, 1990.

See: 22 N.J.R. 1703(a), 22 N.J.R. 3364(a).

Price minimum added.

5:92-12.14 Subsidy to ensure affordability prior to the expiration of controls

If the use of median income data adopted by the Council to index the cost of housing renders a unit unaffordable to a low or moderate income household at the time of resale, a municipality shall not lose credit for the housing unit, provided that adequate controls on affordability remain in place, but the municipality may subsidize the housing unit to maintain affordability.

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.6.

Added "prior to the expiration of controls" to section title.

5:92-12.15 Procedures for initial sales, resale prior to the expiration of controls, and rentals

(a) Low and moderate income units shall not be offered to non-income eligible households at initial sale without Council approval. Parties that petition the Council for such approval shall document efforts to sell housing units to income eligible households and shall adhere to the procedures outlined in N.J.A.C. 5:91-13.

(b) Persons wishing to sell affordable units shall notify the authority responsible for assuring affordability of the intent to sell. If no eligible buyer enters a contract of sale for the unit within 90 days of notification, the authority shall have the option to purchase the unit for the maximum price permitted based on the regional increase in median income as defined by HUD or other recognized standard adopted by the Council. If the authority does not purchase the unit, the seller may apply for permission to offer the unit to a non-income eligible household at the maximum price permitted. The seller shall document efforts to sell the unit to an income eligible household as part of this application. If the request is granted, the seller may offer low income housing units to moderate income households and moderate income housing units to households earning in excess of 80 percent of median. In no case shall the seller be permitted to receive more than the maximum price permitted. In no case shall a sale pursuant to this section eliminate the resale controls on the unit or permit any subsequent seller to convey the unit except in full compliance with the terms of this subchapter.

(c) Owners of low and moderate income rental units shall not offer rental units to non-income eligible households without prior approval of the Council. Parties that petition for such approval shall document all efforts to rent to income eligible households and demonstrate to the satisfaction of the Council that alternatives, such as a reduction in rent, are not feasible. Parties that petition the Council shall adhere to the procedures outlined in N.J.A.C. 5:91-13.

Amended by R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.7.

Added "prior to the expiration of controls" to section title and revised with minor stylistic changes.

Amended by R.1990 d.540, effective November 5, 1990.
See: 22 N.J.R. 1703(a), 22 N.J.R. 3364(a).

Text added at (a) and (c), requiring Council approval for offering to non-income eligible households.

5:92-12.16 Eligible capital improvements prior to the expiration of controls

(a) Property owners of single family, owner-occupied housing may apply to the authority for permission to increase the maximum price for eligible capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household. In no event shall the maximum price of an improved housing unit exceed the limits of affordability for the larger household. Property owners shall apply to the authority if an increase in the maximum sales price is sought.

(b) At resale, all items of property which are permanently affixed to the units and/or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall to wall carpeting) shall be included in the maximum allowable resale price. Other items of property may be sold to the purchaser at a reasonable price that has been approved by the Authority at the time of signing the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale, provided the price has been approved by the Authority. Unless otherwise permitted by the Council, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser shall personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at resale.

Amended by R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.8.

Added "prior to the expiration of controls" to section title and minor stylistic changes.

Amended by R.1990 d.540, effective November 5, 1990.
See: 22 N.J.R. 1703(a), 22 N.J.R. 3364(a).

Text added at (b), specifying eligible capital improvements.

5:92-12.17 Impact of foreclosure on resale while controls are in place

A judgment of foreclosure or a deed in lieu of foreclosure by a financial institution regulated by State and/or Federal law or by a lender on the secondary mortgage market (including but not limited to the Federal National Mortgage Association, the Home Loan Mortgage Corporation, the Government National Mortgage Association or an entity acting on their behalf) shall extinguish controls on affordable housing units provided there is compliance with N.J.A.C. 5:92-12.18. Notice of foreclosure shall allow the authority, the municipality, the Department of Community Affairs, the Agency or a qualified non-profit to purchase the affordable housing unit at the maximum permitted sales price and maintain it as an affordable unit for the balance of the intended period of controls. Failure to purchase the affordable housing unit shall result in the Council adding that unit to the municipal present and prospective fair share obligation. Failure of the financial institution to provide notice of a foreclosure action to the authority shall not impair any of the financial institution's rights to recoup loan proceeds; shall not negate the extinguishment of controls or the validity of the foreclosure; and shall create no cause of action against the financial institution.

Amended by R.1988 d.566, effective December 19, 1988.
See: 20 N.J.R. 1673(b), 20 N.J.R. 3123(c).

Substantially amended.

Amended by R.1989 d.370, effective July 17, 1989.
See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.9.

Added "while controls are in place" to section title.

Changed "5:92-12.10" to "5:92-12.18."

Deleted "municipal entity administering controls on affordability" and specified designated authorities.

Added language about maintaining unit as an affordable unit for specific time.

5:92-12.18 Excess proceeds upon foreclosure

In the event of a foreclosure sale, the owner of the affordable housing unit shall be personally obligated to pay to the authority responsible for assuring affordability, any surplus funds, but only to the extent that such surplus funds exceed the difference between the maximum price permitted at the time of foreclosure and the amount necessary to redeem the debt to the financial institution including costs of foreclosure.

Amended by R.1989 d.370, effective July 17, 1989.

See: 21 N.J.R. 592(b), 21 N.J.R. 2020(a).

Recodified from 12.10.

Changed "municipal entity" to "authority."

APPENDIX

**STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
AFFORDABLE HOUSING AGREEMENT**

Prepared by:

**A DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

This AGREEMENT is entered into on this _____ day of _____, _____ between _____ owner of the properties designated in Section II PROPERTY DESCRIPTION, hereafter "OWNER", and _____ there- after "AUTHORITY", _____ both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing unit described in Section II PROPERTY DESCRIPTION for a period of at least _____ years beginning on _____ and ending at the first non-exempt transfer of title after _____ unless extended by municipal resolution as described in Section III TERM OF RESTRICTION.

WHEREAS, municipalities within the State of New Jersey are required by the Fair Housing Act (P.L.1985, c.222) hereinafter "Act", to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with provisions of the Act; and

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households for a minimum period of at least 6 years; and

WHEREAS, the Act establishes the Council on Affordable Housing (hereinafter "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, pursuant to the Act, the housing unit (units) described in Section II PROPERTY DESCRIPTION here- after and/or an attached Exhibit A of this Agreement has (have) been designated as low and moderate income hous- ing as defined by the Act; and

WHEREAS, the purpose of this Agreement is to ensure that the described housing units (unit) remain(s) affordable to low and moderate income-eligible households for that period of time described in Section III TERM OF RE- STRICTIONS.

NOW, THEREFORE, it is the intent of this Agreement to ensure that the affordability controls are contained direct- ly in the property deed for the premises and incorporated into and recorded with the property deed so as to bind the owner of the described premises and notify all future pur- chasers of the housing unit that the housing unit is encum- bered with affordability controls; and by entering into this Agreement, the Owner of the described premises agrees to restrict the sale of the housing unit to low and moderate income-eligible households at a maximum resale price deter- mined by the Authority for the specified period of time.

I. DEFINITIONS

For purposes of this Agreement, the following terms shall be defined as follows:

"Affordable Housing" shall mean residential units that have been restricted for occupancy by Households whose total Gross Annual Income is measured at less than 80% of the median income level established by an authorized in- come guideline for geographic region and family size.

"Agency" shall mean the New Jersey Housing and Mort- gage Finance Agency established by L. 1983, c.530 (C. 55:14K-1 et seq.).

"Agreement" shall mean this written Affordable Housing Agreement between the Authority and the owner of an Affordable Housing unit which places restrictions on Af- fordable Housing units so that they remain affordable to and occupied by Low and Moderate Income-Eligible Households for the period of time specified in this agree- ment.

"Assessments" shall mean all taxes, levies or charges, both public and private, including those charges by any condo- minium, cooperative or homeowner's association as the applicable case may be, imposed upon the Affordable Hous- ing unit.

"Authority" shall mean the administrative organization designated by municipal ordinance for the purpose of monitoring the occupancy and resale restrictions contained in this Affordable Housing Agreement. The Authority shall serve as an instrument of the municipality in exercising the municipal rights to the collection of funds as contained in this Agreement.

"Base Price" shall mean the initial sales price of a unit produced for or designated as owner-occupied Affordable Housing.

"Council" shall mean the Council on Affordable Housing (COAH) established pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Certified Household" shall mean any eligible Household whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received written certification as a Low or Moderate Income-Eligible Household from the Authority.

"Department" shall mean the New Jersey State Department of Community Affairs.

"Exempt Transaction" shall mean the following "non-sales" title transactions: (1) Transfer of ownership between husband and wife; (2) Transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation (but not including sales to third parties); (3) Transfer of ownership through an Executor's deed to a Class A Beneficiary; and, (4) Transfer of ownership by court order. All other title transfers shall be deemed non-exempt.

"Fair Market Price" shall mean the unrestricted price of a low or moderate income housing unit if sold at a current real estate market rate.

"First Purchase Money Mortgage" shall mean the most senior mortgage lien to secure repayment of funds for the purchase of an Affordable Housing unit providing that such mortgage is not in excess of the applicable maximum allowable resale price and is payable to a valid First Purchase Money Mortgagee.

"First Purchase Money Mortgagee" shall mean an institutional lender or investor, licensed or regulated by the Federal or a State government or any agency thereof, which is the holder and/or assigns of the First Money Mortgage.

"Foreclosure" shall mean the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross Annual Income" shall mean the total amount of all sources of a Household's income including, but not limited to salary, wages, interest, tips, dividends, alimony, pensions, social security, business and capital gains, tips and welfare benefits. Generally, gross annual income will be based on those sources of income reported to the Internal Revenue Service (IRS) and/or that can be utilized for the purpose of mortgage approval.

"Hardship Waiver" shall mean an approval by the Authority at a non-exempt transfer of title to sell an affordable unit to a household that exceeds the income eligibility criteria after the Owner has demonstrated that no Certified Household has signed an agreement to purchase the unit. The Owner shall have marketed the unit for 90 days after a Notice of Intent to Sell has been received by the Authority and the Authority shall have 30 days thereafter to approve a Hardship Waiver. The Hardship Waiver shall permit a low income unit to be sold to a moderate income household or a moderate income unit to be sold to a household whose income is at 80% or above the applicable median income guide. The Hardship Waiver is only valid for a single sale.

"Household" shall mean the person or persons occupying a housing unit.

"Index" shall mean the measured percentage of change in the median income for a Household of four by geographic region using the income guideline approved for use by Council.

"Low Income Household" shall mean a Household whose total Gross Annual Income is equal to 50% or less of the median gross income figure established by geographic region and household size using the income guideline approved for use by Council.

"Moderate Income Household" shall mean a Household whose total Gross Annual Income is equal to more than 50% but less than 80% of the median gross income established by geographic region and household size using the income guideline approved for use by Council.

"Owner" shall mean the title holder of record as same is reflected in the most recently dated and recorded deed for the particular Affordable Housing unit. For purposes of the initial sales or rentals of any Affordable Housing unit, Owner shall include the developer/owner of such Affordable Housing units. Owner shall not include any co-signer or co-borrower on any First Purchase Money Mortgage unless such co-signer or co-borrower is also a named title holder of record of such Affordable Housing unit.

"Price Differential" shall mean the total amount of the restricted sales price that exceeds the maximum restricted resale price as calculated by the Index after reasonable real estate broker fees have been deducted. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Authority at the time a Notice of Intent to Sell has been received from the Owner.

“Primary Residence” shall mean the unit wherein a Certified Household maintains continuing residence for no less than nine months of each calendar year.

“Purchaser” shall mean a Certified Household who has signed an agreement to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

“Repayment” shall mean the Owner’s obligation to the municipality for payment of 95% of the price differential between the maximum allowable resale price and the fair market selling price which has accrued to the Affordable unit during the restricted period of resale at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

“Repayment Mortgage” shall mean the second mortgage document signed by the Owner that is given to the municipality as security for the payment due under the Repayment Note.

“Repayment Note” shall mean the second mortgage note signed by the owner that requires the repayment to the municipality of 95% of the price differential which has accrued to the low or moderate income unit during the period of resale controls at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

“Resale Price” shall mean the Base Price of a unit designated as owner-occupied affordable housing as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement.

“Total Monthly Housing Costs” shall mean the total of the following monthly payments associated with the cost of an owner-occupied Affordable Housing unit including the mortgage payment (principal, interest, private mortgage insurance), applicable assessments by any homeowners, condominium, or cooperative associations, real estate taxes, and fire, theft and liability insurance.

II. PROPERTY DESCRIPTION

This agreement applies to the Owner’s interest in the real property commonly known as:

Block _____ Lot _____ Municipality _____
 County _____ # of Bedrooms _____
 Complete Street Address & Unit # _____
 City _____ State _____ Zip _____

If additional Affordable Housing units are to be covered by this Agreement, a description of each additional unit is attached as Exhibit A and is incorporated herein.

III. TERM OF RESTRICTIONS

A. The terms, restrictions and covenants of this Affordable Housing Agreement shall begin on the later of the date a Certificate of Occupancy is issued or the date on which closing and transfer of title takes place for initial ownership.

B. The terms, restrictions and covenants of this Affordable Housing Agreement shall terminate upon the occurrence of either of the following events:

1. At the first non-exempt sale after 10 (ten) years from the beginning date established pursuant to Paragraph A above for units located in municipalities receiving State Aid pursuant to P.L.1978, L.14 (N.J.S.A. 52:27D-178 et seq.) that exhibit one of the characteristics delineated in N.J.A.C. 5:92-5.3(b); or at the first non-exempt sale after 20 (twenty) years from the beginning date established pursuant to Paragraph A above for units located in all other municipalities; or

2. The date upon which the event set forth in Section IX FORECLOSURE herein shall occur.

C. The terms, restrictions and covenants of this Affordable Housing Agreement may be extended by municipal resolution as provided for in N.J.A.C. 5:92.1 et seq. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority. The municipal resolution shall specify the extended time period by providing for a revised ending date. An amendment to the Affordable Housing Agreement shall be filed with the recording office of the county in which the Affordable Housing unit or units is/are located.

D. At the first non-exempt title transaction after the established ending date, the Authority shall execute a document in recordable form evidencing that the Affordable Housing unit has been released from the restrictions of this Affordable Housing Agreement.

IV. RESTRICTIONS

A. The Owner of an owner-occupied Affordable Housing unit for sale shall not sell the unit at a Resale Price greater than an established Base Price plus the allowable percentage of increase as determined by the Index applicable to the municipality in which the unit is located. However, in no event shall the maximum allowable price established by the authority be lower than the last recorded purchase price.

B. The Owner shall not sell the Affordable Housing unit to anyone other than a Purchaser who has been certified utilizing the income verification procedures established by the Authority to determine qualified Low and Moderate Income-Eligible Households.

C. An Owner wishing to enter a transaction that will terminate controls as specified heretofore in Section III TERM OF RESTRICTIONS shall be obligated to provide a Notice of Intent to Sell to the Authority and the Council. An option to buy the unit at the maximum restricted sales price as calculated by the Index shall be made available to the Municipality, the Department, the Agency, or a qualified non-profit organization as determined by the Council for a period of ninety (90) days from the date of delivery of the Notice of Intent to Sell. The option to buy shall be by certified mail and shall be effective on the date of mailing to the Owner.

1. If the option to buy is not exercised within ninety (90) days pursuant to Paragraph C above, the Owner may elect to sell the unit to a certified income-eligible household at the maximum restricted sales price as calculated by the Index provided the unit continues to be restricted by an Affordable Housing Agreement and a Repayment Lien for a period of up to twenty (20) years.

2. Alternately, the Owner may also elect to sell to any purchaser at a fair market price. In this event, the Owner shall be obligated to pay the municipality 95% of the Price Differential generated at the time of closing and transfer of title of the Affordable Housing unit after restrictions have ended as specified heretofore in Section III TERM OF RESTRICTIONS.

3. If the Owner does not sell the unit within one (1) year of the date of delivery of the Notice of Intent to Sell, the option to buy shall be restored to the municipality and subsequently to the Department, the Agency or a Non-Profit approved by the Council. The Owner shall then be required to submit a new Notice of Intent to Sell the affordable unit to the Authority.

D. The Affordable Housing unit shall be sold in accordance with all rules, regulations, and requirements duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), the intent of which is to ensure that the Affordable Housing unit remains affordable to and occupied by Low and Moderate Income-Eligible Households throughout the duration of this Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the county in which the Affordable Housing unit or units are located. The Agreement shall be filed no earlier than the recording of an applicable Master Deed and no later than the closing date of the initial sale.

B. When a single Agreement is used to govern more than one Affordable Housing unit, the Agreement shall contain a description of each Affordable Housing unit governed by the Agreement as described in Section II PROPERTY DESCRIPTION and/or Exhibit A of the Agreement and an ending date to be imposed on the unit as described in Section III TERM OF RESTRICTIONS of the Agreement.

C. A Repayment Mortgage and a Repayment Note shall be executed between the Owner and the municipality wherein the unit(s) is (are) located at the time of closing and transfer of title to any purchaser of an Affordable Housing unit. The Repayment Mortgage shall provide for the repayment of 95% of the Price Differential at the first non-exempt transfer of title after the ending date of restrictions as specified in Section III TERM OF RESTRICTIONS. The Repayment Mortgage shall be recorded with the records office of the County in which the unit is located.

VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

All Deeds of Conveyance and Contracts to Purchase from all Owners to Certified Purchasers of Affordable Housing units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the AFFORDABLE HOUSING AGREEMENT dated _____ which was filed in the Office of the Clerk of _____ County in Misc. Book _____ at Page _____ on _____ and is also on file with the Authority".

Any Master Deed that includes an Affordable Housing unit shall also reference the affordable unit and the Affordable Housing Agreement and any variation in services, fees, or other terms of the Master Deed that differentiates the affordable unit from all other units covered in the Master Deed.

VII. COVENANTS RUNNING WITH LAND

The provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each Affordable Housing unit affected hereby, and shall bind all Purchasers and Owners of each Affordable Housing unit, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein.

VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing units shall at all times remain the Primary Residence of the Owner. The Owner shall not rent any Affordable Housing unit to any party whether or not that party qualifies as a Low or Moderate income household without prior written approval from the Authority.

B. All home improvements made to an Affordable Housing unit shall be at the Owner's expense except that expenditures for any alteration that allows a unit to be resold to a larger household size because of increased capacity for occupancy shall be considered for a recalculation of Base Price. Owners must obtain prior approval for such alteration from the Authority to qualify for this recalculation.

C. The Owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

D. Owners of Affordable Housing units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same become due.

E. Owners of Affordable Housing units shall notify the Authority in writing no less than ninety (90) days prior to any proposed sale of an intent to sell the property. Owners shall not execute any purchase agreement, convey title or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Authority.

F. An Owner shall request referrals of eligible households from pre-established referral lists maintained by the Authority.

G. If the Authority does not refer an eligible household within sixty (60) days of the Notice of Intent to Sell the unit or no Agreement to Purchase the unit has been executed, the Owner may propose a Contract to Purchase the unit to an eligible household not referred through the Authority. The proposed Purchaser must complete all required Household Eligibility forms and submit Gross Annual Income Information for verification to the Authority for written certification as an eligible sales transaction.

H. At resale, all items of property which are permanently affixed to the unit and/or were included when the unit was initially restricted (e.g. refrigerator, range, washer, dryer, dishwasher, wall to wall carpeting) shall be included in the maximum allowable Resale Price. Other items of property may be sold to the Purchaser at a reasonable price that has been approved by the Authority at the time of signing the Agreement to Purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the Base Price may be made a condition of the unit resale provided the price has been approved by the Authority. Unless otherwise permitted by the Council, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The Owner and the Purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at Resale.

I. The Owner shall not permit any lien, other than the First Purchase Money Mortgage, second mortgages approved by the Authority and liens of the Authority to attach and remain on the property for more than sixty (60) days.

J. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the Owner, in addition to paying any assessments required by the Master Deed of the Condominium or By-laws of an Association, shall further fully comply with all of the terms, covenants or conditions of said Master Deed or By-Laws, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Agreement.

K. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), for determining that a resale transaction is qualified for a Certificate of Exemption. The Owner shall notify the Authority in writing of any proposed Exempt Transaction and supply the necessary documentation to qualify for a Certificate of Exemption. An Exempt Transaction does not terminate the resale restrictions or existing liens and is not considered a certified sales transaction in calculating subsequent resale prices. A Certificate of Exemption shall be filed with the deed at the time of title transfer.

L. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), for determining that a resale transaction is qualified for a Hardship Waiver. The Owner may submit a written request for a Hardship Waiver if no Certified Household has executed an agreement to purchase within ninety (90) days of notification of an approved resale price and referral of potential purchasers. Prior to issuing a Hardship Waiver, the Municipality shall have 30 days in which to sign an agreement to purchase the unit at the approved resale price and subsequently rent or convey it to a Certified Household. The Municipality may transfer this option to the Department, the Agency, or a qualified non-profit organization as determined by the Council. For approval of a Hardship Waiver, an Owner must document efforts to sell the unit to an income eligible household. If the waiver is granted, the Owner may offer a low income unit to a moderate income household or a moderate income unit to a household whose income exceeds 80% of the applicable median income guide. The Hardship Waiver shall be filed with the deed at the time of closing and is only valid for the designated resale transaction. It does not affect the resale price. All future resales are subject to all restrictions stated herein.

M. The Owner shall be obligated to pay a reasonable service fee to the Authority at the time of closing and transfer of title in the amount specified by the Authority at the time a restricted resale price has been determined after receipt of a Notice of Intent to Sell. Such fee shall not be included in the calculation of the maximum resale price.

IX. FORECLOSURE

The terms and restrictions of this Agreement shall be subordinated only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing unit.

Any Affordable Housing owner-occupied property that is acquired by a First Purchase Money Mortgagee by Deed in lieu of Foreclosure, or by a Purchaser at a Foreclosure sale conducted by the holder of the First Purchase Money Mortgagee shall be permanently released from the restrictions and covenants of this Affordable Housing Agreement. All resale restrictions shall cease to be effective as of the date of transfer of title pursuant to Foreclosure with regard to the First Purchase Money Mortgagee, a lender in the secondary mortgage market including but not limited to the FNMA, Federal Home Loan Mortgage Corporation, GNMA, or an entity acting on their behalf and all subsequent purchasers, Owners and mortgagees of that particular Affordable Housing unit (except for the defaulting mortgagor, who shall be forever subject to the resale restrictions of this Agreement with respect to the Affordable Housing unit owned by such defaulting mortgagor at time of the Foreclosure sale).

Upon a judgment of Foreclosure, the Authority shall execute a document to be recorded in the county recording office as evidence that such Affordable Housing unit has been forever released from the restrictions of this Agreement. Execution of foreclosure sales by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement.

In the event of a Foreclosure sale by the First Purchase Mortgagee, the defaulting mortgagor shall be personally obligated to pay to the Authority any excess funds generated from such Foreclosure sale. For purposes of this agreement, excess funds shall be the total amount paid to the sheriff by reason of the Foreclosure sale in excess of the greater of (1) the maximum permissible Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale pursuant to the rules and guidelines of the Authority and (2) the amount required to pay and satisfy the First Money Mortgage, including the costs of Foreclosure plus any second mortgages approved by the Authority in accordance with this Agreement. The amount of excess funds shall also include all payments to any junior creditors out of the Foreclosure sale proceeds even if such were to the exclusion of the defaulting mortgagor.

The Authority is hereby given a first priority lien, second only to the First Purchase Money Mortgagee and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such excess funds. This obligation of the defaulting mortgagor to pay the full amount of excess funds to the Authority shall be deemed to be a personal obligation of the Owner of record at time of the Foreclosure sale surviving such sale. The Authority shall be empowered to enforce the obligation of the defaulting mortgagor in any appropriate court of law or equity as though same were a personal contractual obligation of the defaulting mortgagor. Neither the First Purchase Money Mortgagee nor the purchaser at the Foreclosure sale shall be responsible or liable to the Authority for any portion of this excess.

No part of the excess funds, however, shall be part of the defaulting mortgagor's equity.

The defaulting mortgagor's equity shall be determined to be the difference between the maximum permitted Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale as calculated in accordance with this Agreement and the total of the following sums. First Purchase Money Mortgage, prior liens, costs of Foreclosure, assessments, property taxes, and other liens which may have been attached against the unit prior to Foreclosure, provided such total is less than the maximum permitted Resale Price.

If there are Owner's equity sums to which the defaulting mortgagor is properly entitled, such sums shall be turned over to the defaulting mortgagor or placed in an escrow account for the defaulting mortgagor if the defaulting mortgagor cannot be located. The First Purchase Money Mortgagee shall hold such funds in escrow for a period of two years or until such earlier time as the defaulting mortgagor shall make a claim for such. At the end of two years, if unclaimed, such funds, including any accrued interest, shall become the property of the Authority to the exclusion of any other creditors who may have claims against the defaulting mortgagor.

Nothing shall preclude the municipality wherein the Affordable Housing unit is located from acquiring an affordable property prior to foreclosure sale at the approved maximum Resale Price and holding, renting or conveying it to a Certified Household if such right is exercised within 90 days after the property is listed for sale and all outstanding obligations to the First Purchase Money Mortgagee are satisfied.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this agreement by an Owner, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under the mortgage, recoupment of any funds from a sale in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, ethics on the premises, and specific performance.

XI. RIGHT TO ASSIGN

The Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Authority, its successors or assigns shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extent possible, that the purchase price, mortgage payments and rents of designated Affordable Housing units remain affordable to Low and Moderate Income-Eligible Households as defined herein.

XIII. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested as follows:

To the Owner:

At the address of the property stated in SECTION II PROPERTY DESCRIPTION hereof.

To the Authority:

At the address stated below:

Attention:

Or such other address that the Authority, Owner, or municipality may subsequently designate in writing and mail to the other parties.

XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other Agreement with provisions contradictory of, or in opposition to, the provisions hereof has been or will be executed, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority, and their respective successors.

XV. SEVERABILITY

It is the intention of all parties that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof, is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall

be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this instrument.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of New Jersey.

XVII. OWNER'S CERTIFICATION

The Owner certifies that all information provided in order to qualify as the owner of the property or to purchase the property is true and correct as of the date of the signing of this Agreement.

XVIII. AGREEMENT

A. The Owner and the Authority hereby agree that all Affordable Housing units described herein shall be marketed, sold, and occupied in accordance with the provisions of this Agreement. Neither the Owner nor the Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party except as described in Section III, Paragraph C, TERM OF RESTRICTION. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until recorded with the County Clerk for the County in which the Affordable Housing units are situated.

Dated: _____
ATTEST: _____

By: _____
Signature (Owner)

Signature (Co-Owner)

Dated: _____
ATTEST: _____

By: _____
Signature (Authority)

STATE OF NEW JERSEY)
_____) ss
COUNTY OF _____)

BE IT REMEMBERED, that on this ___ day of _____, 198___, before me, the subscriber, _____ personally appeared _____ who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction, that he/she is the Owner (Co-Owner) named in the within instrument; that is the Affordable Housing Agreement of the described Property; that the execution, as

well as the making of this instrument, has been duly authorized and is the voluntary act and deed of said Owner.

Sworn to and subscribed before me,
the date aforesaid.

EXHIBIT A

AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement also applies to the owner's interest in the real properties as further described below:

PROPERTY DESCRIPTION

Block _____ Lot _____ Municipality _____
County _____ # of Bedrooms _____
Complete Street Address & Unit # _____
City _____ State _____ Zip _____

The restrictions contained herein shall be imposed on this Affordable Housing unit for a period of at least _____ years beginning on _____ and ending at the first non-exempt transfer of title after _____ unless extended by municipal resolution as described in Section III TERM OF RESTRICTION.

Please add additional property descriptions as required including individual building or unit numbers for condominiums or townhouse complexes indicating a TERM OF RESTRICTION as applicable.

STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
SECOND REPAYMENT MORTGAGE

Prepared by:

This Mortgage made on _____, 19__ between _____ (referred to as "Borrower") and _____ (referred to as the "Authority"), which Authority is an instrumentality of _____ (referred to as the "Municipality")

REPAYMENT MORTGAGE NOTE

In consideration of value received by the Borrower in connection with the Property (described below) purchased by the Borrower, the Borrower has signed a note dated _____. The Borrower promises to pay the amounts due under the Note and to abide by all promises contained in the Note.

MORTGAGE AS SECURITY

This Mortgage is given to the Authority as security for the payment due and the performance of all promises under the Note. The Borrower mortgages the real estate owned by the Borrower described as follows (referred to as the "Property"):

All of the land located in the _____ of _____ County of _____ and State of New Jersey, specifically described as follows:

Street Address: _____

Lot No.: _____ Block No.: _____

Also more particularly described as:

Together with:

1. All buildings and other improvements that now are or will be located on the Property.
2. All fixtures, equipment and personal property that now are or will be attached to or used with the land, buildings and improvements of or on the Property.
3. All rights which the Borrower now has or will acquire with regard to the Property.

BORROWER'S ACKNOWLEDGEMENTS

1. The Borrower acknowledges and understands that:

(a) Municipalities within the State of New Jersey are required under the Fair Housing Act and regulations adopted under the authority of the Act to provide for their fair share of housing that is affordable to households of low and moderate income; and

(b) The Property which is subject to this Mortgage has been designated as housing which must remain affordable to low and moderate income households for at least twenty years unless a shorter time period is authorized in accordance with rules established by any agency having jurisdiction (the "restricted period"); and

(c) To ensure that such housing, including this Property, remains affordable to low and moderate income households during the restricted period, an Affordable Housing Agreement has been executed by the Borrower that constitutes covenants running with the land with respect to the Property and the Municipality has adopted procedures and restrictions governing the resale of the Property; and

(d) The Authority to which the Property is mortgaged has been designated by the Municipality to administer the procedures and restrictions governing such housing.

2. The Borrower also acknowledges and understands that the Property has been purchased at a restricted sales price that is less than the fair market value of the Property.

BORROWER'S PROMISES

In consideration for the value received in connection with the purchase of the Property at a restricted sales price, the Borrower agrees as follows:

1. The Borrower will comply with all of the terms of the Note and this Mortgage which includes:

(a) Within the restricted period starting with the date the Borrower obtained title to the Property, the Borrower shall not sell or transfer title to the Property for an amount that exceeds the maximum allowable resale price as established by the Authority. In the event of breach of this promise, Borrower hereby assigns all proceeds in excess of the maximum allowable resale price to the Authority, said assignment to be in addition to any and all rights and remedies the Authority has upon default.

(b) At the first non-exempt transfer of title of the Property after the ending date of the restricted period, the Borrower agrees to repay 95% of the incremental amount between the maximum allowable resale price and the fair market selling price which has accrued to the Property during the restricted period to the Authority.

2. The Borrower warrants title to the premises (N.J.S.A. 46:9-2). This means the Borrower owns the Property and will defend its ownership against all claims.

3. The Borrower shall pay all liens, taxes, assessments and other governmental charges made against the Property when due. The Borrower will not claim any credit against the principal and interest payable under the Note and this Mortgage for any taxes paid on the Property.

4. The Borrower shall keep the Property in good repair, neither damaging nor abandoning it. The Borrower will allow the Authority to inspect the Property upon reasonable notice.

5. The Borrower shall use the Property in compliance with all laws, ordinances and other requirements of any governmental authority.

CONTROLS ON AFFORDABILITY

The procedures and restrictions governing resale of the Property have been established pursuant to the Fair Housing Act and the regulations adopted under the authority of the Act (all collectively referred to as "Controls on Affordability"). Reference is made to the Controls on Affordability for the procedure in calculating the maximum allowable resale price, the method of repayment described in item 1(b) of the section entitled "Borrower's Promises", and the definition of a "restricted sale" for purposes of determining

when the Affordability Controls are applicable, and the determination of the restricted period of time.

RIGHTS GIVEN TO LENDER

The Borrower, by mortgaging the Property to the Authority, gives the Authority those rights stated in this Mortgage, all rights the law gives to lenders, who hold mortgages, and also all rights the law gives to the Authority and/or Municipality under the Affordability Controls. The rights given to the Authority and the restrictions upon the Property are covenants running with the land. The rights, terms and restrictions in this Mortgage shall bind the Borrower and all subsequent purchasers and owners of the Property, and the heirs and assigns of all of them. Upon performance of the promises contained in the Note and Mortgage, the Authority will cancel this Mortgage at its expense.

DEFAULT

The Authority may declare the Borrower in default on the Note and this Mortgage if:

1. The Borrower fails to comply with the provisions of the Affordable Housing Agreement;
2. The Borrower fails to make any payment required by the Note and this Mortgage;
3. The Borrower fails to keep any other promise made in this Mortgage;
4. The ownership of the Property is changed for any reason without compliance with the terms of the Note and Mortgage;
5. The holder of any lien on the Property starts foreclosure proceedings; or
6. Bankruptcy, insolvency or receivership are started by or against any of the Borrowers.

AUTHORITY'S RIGHTS UPON DEFAULT

If the Authority declares that the Note and this Mortgage are in default, the Authority shall have, subject to the rights of the First Mortgage, all rights given by law or set forth in this Mortgage.

NOTICES

All notices must be in writing and personally delivered or sent by certified mail, return receipt requested, to the addresses given in this Mortgage. Address changes may be made upon notice to the other party.

NO WAIVER BY AUTHORITY

The Authority may exercise any right under this Mortgage or under any law, even if the Authority has delayed in exercising that right or has agreed in an earlier instance not to exercise that right. The Authority does not waive its

right to declare the Borrower is in default by making payments or incurring expense on behalf of the Borrower.

EACH PERSON LIABLE

This Mortgage is legally binding upon each Borrower and all who succeed to their responsibilities (such as heirs and executors). The Authority may enforce any of the provisions of the Note and this Mortgage against any one or more of the Borrowers who sign this Mortgage.

SECOND MORTGAGE

The lien on this Mortgage is inferior to and subject to the terms and provisions of the First Mortgage executed contemporaneously herewith.

NO ORAL CHANGES

This Mortgage can only be changed by an agreement in writing signed by both the Borrower and the Authority.

SIGNATURES

The Borrower agrees to the terms of this Mortgage by signing below.

WITNESS: _____

TO THE REGISTER OR CLERK, Record and return to:
County: _____

This mortgage is fully paid and satisfied.
I authorize you to cancel it of Record.

Lender: _____

I certify that the Lender's signature is genuine.

**STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
SECOND MORTGAGE REPAYMENT NOTE**
_____, 1989 _____, New Jersey

FOR VALUE RECEIVED _____ (referred to as the "Borrower") promises to pay to _____ (referred to as the "Authority") an instrumentality of _____ (the "Municipality") the amounts specified in this Note and promises to abide by the terms contained below. This mortgage is subordinate to the first mortgage executed contemporaneously herewith.

REPAYMENT MORTGAGE

As security for the payment of amounts due under this Note and the performance of all promises contained in this Note, the Borrower is giving the Authority a Mortgage, dated _____. The Mortgage covers real estate (the "Property") owned by the Borrower, the legal description of such real estate being contained in the Mortgage.

BORROWER'S PROMISE TO PAY AND OTHER TERMS

1. The Property is subject to terms, restrictions and conditions that prohibit its sale at a fair market price for an established period of time. Within the restricted period, starting with the date the Borrower obtains title to the Property, the Borrower shall not sell or transfer title to the Property for an amount that exceeds a maximum allowable resale price established by the Authority.

(a) All proceeds received during the restricted period in excess of the restricted amount shall be paid to the Authority.

(b) At the first non-exempt sale of the Property after restrictions have ended, the Borrower agrees to repay 95% of the incremental amount between the maximum allowable resale price and the fair market selling price which has accrued to the Property during the restricted period of resale (the "Price Differential") to the Authority.

2. The amount due and payable to the Authority shall be calculated as follows:

FAIR MARKET PRICE less
MAXIMUM ALLOWABLE RESALE PRICE
equals
PRICE DIFFERENTIAL
BORROWER'S PROCEEDS
equals
MAXIMUM ALLOWABLE RESALE PRICE
plus 5% of PRICE DIFFERENTIAL
AMOUNT OF NOTE
equals
FAIR MARKET PRICE less
BORROWER'S PROCEEDS

WAIVER OF FORMAL ACTS

The Borrower waives its right to require the Authority to do any of the following before enforcing its rights under this Note:

- 1. To demand payment of amount due (known as Presentment).
- 2. To give notice that amounts due have not been paid (known as Notice of Dishonor).
- 3. To obtain an official certificate of non-payment (known as Protest).

RESPONSIBILITY UNDER NOTE

All Borrowers signing this Note are jointly and individually obligated to pay the amounts due and to abide by the terms under this Note. The Authority may enforce this Note against any one or more of the Borrowers or against all Borrowers together.

SIGNATURES

The Borrower agrees to the terms of this Note by signing below.

WITNESSED: _____
_____ L.S.
_____ L.S.

New Rule, R.1989 d.527, effective October 2, 1989.
See: 21 N.J.R. 1988(a), 21 N.J.R. 3091(a).
Amended by R.1990 d.540, effective November 5, 1990.
See: 22 N.J.R. 1703(a), 22 N.J.R. 3364(a).
Price minimum added; eligible capital improvements specified.

SUBCHAPTER 13. WAIVER

5:92-13.1 Waiver

Any party desiring a waiver or release from the express provisions of the regulations in this chapter may submit a written request to the Council to the attention of the Executive Director. Waivers may be granted only by the Council where such waiver would not contravene the provisions of the Act.

SUBCHAPTER 14. INCLUSIONARY DEVELOPMENTS

5:92-14.1 Bedroom distribution

(a) Municipalities shall devise and provide for within their housing element, a method which establishes the following distribution of the number of bedrooms contained within an inclusionary development:

1. At a minimum, 35 percent of all low and moderate income units shall be two bedroom units; and
2. At a minimum, 15 percent of all low and moderate income units shall be three bedroom units; and
3. No more than 20 percent of all low and moderate income units may be efficiency units.

5:92-14.2 Range of affordability for purchased housing

(a) Municipalities shall provide within their housing element that the average price of low and moderate income units within an inclusionary development be, as best as

practicable, affordable to households at 57.5 percent of median income as contained in N.J.A.C. 5:92-12.4.

(b) In devising a range of affordability for purchased housing, as required in (a) above, municipalities shall provide, as best as practicable, for the following distribution of prices for every 20 low and moderate income units:

Proposed Pricing Stratification

Low	1 at 40 through 42.5 percent 3 at 42.6 through 47.5 percent 6 at 47.6 through 50 percent
Moderate	1 at 50.1 through 57.5 percent 1 at 57.6 through 64.5 percent 1 at 64.6 through 68.5 percent 1 at 68.6 through 72.5 percent 2 at 72.6 through 77.5 percent 4 at 77.6 through 80 percent

(c) For initial occupancy, priority shall be given to households that fall within the median income categories delineated in (b) above.

Case Notes

Claims that regulations failed to provide affordable housing units and did not create realistic opportunity for creation of affordable housing would be rejected, where no data indicating that current affordability standards failed to properly implement goals of *Mount Laurel*. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

The Council on Affordable Housing is authorized to establish affordability standards that will enable developers to satisfy their *Mount Laurel* lower income housing obligations. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

5:92-14.3 Age restricted units and alternative living arrangements

(a) Municipalities may address up to 25 percent of their fair share obligation, as calculated after credits and adjustments have been granted, less any units transferred by way of a regional contribution agreement, by creating age restricted housing units and/or alternative living arrangements. The unit of credit for alternative living arrangements shall be the bedroom. Therefore, if two or more people share a bedroom, the municipality shall receive credit for one unit against its fair share obligation.

(b) The Council shall monitor alternative living arrangements on an annual basis to determine the impact of this rule.

Amended by R.1989 d.264, effective May 15, 1989.
See: 21 N.J.R. 595(a), 21 N.J.R. 1331(c).
Deleted old text on age restricted units and added new (a) and (b) to include "alternative living arrangements".

5:92-14.4 Rental housing

(a) A municipality's housing element shall contain a rental housing component if the municipal fair share obligation, as calculated in the following formula, is 125 or more:

Precredited Need—Adjustment—Credits—(Rehabilitation Component) = Municipal Fair Share Obligation

(b) Municipalities that are required to include within their housing element a rental housing component, shall provide the opportunity that 20 percent of the units calculated pursuant to (a) above, be rental units. This opportunity may be in the form of conditional use zoning.

(c) Within zones designated for rental inclusionary developments, the Council shall presumptively require a 15 percent maximum set-aside and a minimum gross density of 7.8 units per acre. The Council may modify the set-aside or density requirements based on tax abatements granted by the municipality; government subsidy of a rental project; and/or any other action by the municipality that makes the provision of rental housing realistically possible.

(d) All municipalities, including those not required to develop a rental housing component, shall receive a one and a third unit credit, for each rental unit constructed and occupied in their municipality, until such time that the constructed rental housing units are in excess of 20 percent of the municipal fair share calculated after crediting, after adjustments and after subtracting the rehabilitation component. The Council may grant municipalities the one and a third unit credit when it determines that the municipality has provided or received a firm commitment for the construction of low and moderate income rental units that includes a construction timetable coinciding with the period of substantive certification.

(e) No municipality shall be required to construct rental housing that is in excess of 20 percent of its fair share, after crediting, after adjustments and after subtracting the rehabilitation component.

(f) Municipalities that choose to transfer the rental housing component via a Regional Contribution Agreement shall do so by creating new rental units in the receiving municipality.

Amended by R.1989 d.265, effective May 15, 1989.

See: 21 N.J.R. 234(a), 21 N.J.R. 1332(a).

In (d), added language providing that the Council may grant a one and a third unit credit to municipalities when the municipality has provided a firm commitment for the construction of such units.

Amended by R.1991 d.412, effective August 5, 1991.

See: 23 N.J.R. 1488(a), 23 N.J.R. 2307(a).

In (a), clarified credits for rental housing; added formula.

In (d) and (e), "indigenous need" deleted and "subtracting the rehabilitation component" added.

Case Notes

Rental bonus rule, under which it was possible to grant bonus credit even before affordable rental unit was actually occupied, was proper. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

Affordable housing regulations did not violate Fair Housing Act. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

Eliminating bonus units without reallocating them was proper; municipality could satisfy its fair share units by building smaller number of units of rental housing. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

SUBCHAPTER 15. AFFIRMATIVE MARKETING WITHIN INCLUSIONARY DEVELOPMENTS

5:92-15.1 Occupancy preference

For all low and moderate income housing units provided in inclusionary developments, municipalities shall establish occupancy such that initially, no more than 50 percent of the units are made available to income eligible households that reside in the municipality or work in the municipality and reside elsewhere.

Law Review and Journal Commentaries

Affordable Housing. Steven P. Bann, 133 N.J.L.J. No. 14, 73 (1993).

Case Notes

Council regulation authorizing municipalities to make available an occupancy preference for households that reside or work in municipality was invalid. *In re Township of Warren*, 132 N.J. 1, 622 A.2d 1257 (1993).

Regulation authorizing occupancy preference was permissible only if it were extended to both local residents and local workers. *In re Borough of Roseland*, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

The Council on Affordable Housing could authorize occupancy preference for *Mount Laurel* lower income housing only if that preference is extended to both local residents and local workers, without going through rule-making procedures of the Administrative Procedure Act (APA). *In re Borough of Roseland*, 247 N.J.Super. 203, 588 A.2d 1256 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Incidental impact which regulation providing occupancy preference might have upon racial makeup of occupants of lower income housing would not violate the Federal Fair Housing Act. *In re Township of Warren*, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Authorized occupancy preference did not violate the Federal Fair Housing Act. *In re Township of Warren*, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Occupancy preference for households that reside in municipality or have members working in municipality was not violative of constitutional prohibitions against racial discrimination. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Council could authorize occupancy preference for *Mount Laurel* lower income housing for households which have existing roots in municipality. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

Council on Affordable Housing's authorization of preference in lower income housing units for households that reside in municipality or have members working in municipality was properly included in township's fair share plan. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

The Council on Affordable Housing had continuing responsibility to monitor actual operation of preference to assure that the preference did not result in abuses. In re Township of Warren, 247 N.J.Super. 146, 588 A.2d 1227 (A.D.1991), certification denied 127 N.J. 557, 606 A.2d 369, reversed 132 N.J. 1, 622 A.2d 1257.

5:92-15.2 Affirmative Marketing Program

(a) Municipalities shall have primary responsibility for developing and implementing an Affirmative Marketing Program that addresses the occupancy preference requirements in N.J.A.C. 5:92-15.1. Municipalities shall either require developers and/or sponsors of low and moderate income housing to market, screen, offer occupancy and select income eligible households accordingly; perform this responsibility themselves; establish an agency to perform on their behalf and/or enter into an agreement with outside agents.

(b) Municipalities shall provide the Council on Affordable Housing with an Affirmative Marketing Program that addresses occupancy preference required in N.J.A.C. 5:92-15.1, subject to Council review and certification. This Affirmative Marketing Program shall identify representative groups operating in the municipality and its respective housing region (for example, community based and civic organizations, council of churches, welfare and social service agencies, etc.). Further, the program shall require that any developers and/or sponsors of projects with 25 or more low and moderate income housing units actively market these units to appropriate representative groups, as is specified in the Affirmative Marketing Program.

(c) Municipalities shall identify minimum and appropriate affirmative marketing requirements for projects of less than 25 units of low and moderate income housing.

(d) The Affirmative Marketing Program shall commence at least 90 days before issuance of either temporary or permanent certificates of occupancy, and shall continue until all low and moderate income housing units are under contract of sale and/or lease.

(e) For initial occupancy priority, households shall be screened for occupancy preference as required in N.J.A.C. 5:92-15.1. These households shall be offered contracts of

sale and/or lease first and before other income eligible households. When 50 percent of the housing units have been purchased or leased, according to N.J.A.C. 5:92-15.1 the remaining income eligible applicants, not yet under contract, shall be pooled and offered contracts.

(f) Within all rounds of applicant selection, random selection of eligible applicants should prevail.

(g) Municipalities shall prepare progress reports on an 18 month cycle from the date of substantive certification. These reports shall be made available to the public and filed with the Council on Affordable Housing. These reports shall provide an analysis of the actual characteristics of households occupying low and moderate income units compared to the occupancy preference in N.J.A.C. 5:92-15.1.

(h) Three and six years from substantive certification, municipalities shall prepare summary reports of their affirmative marketing programs. These reports shall expand upon previous progress reports by assessing the aggregate and up-to-date effectiveness of the programs. If applicable, municipalities shall recommend improvements to redress their record of occupancy preference to reflect requirements as in N.J.A.C. 5:92-15.1.

5:92-15.3 Exemption from occupancy preference and Affirmative Marketing Program

(a) Municipalities which do not have a reallocated present and prospective need shall be exempt from occupancy preferences as contained in N.J.A.C. 5:92-15.1 and related Affirmative Marketing Program requirements as contained in N.J.A.C. 5:92-15.1-2.

(b) Where the affirmative marketing regulations of the U.S. Department of Housing and Urban Development, the N.J. Department of Community Affairs and/or the N.J. Housing & Mortgage Finance Agency are applicable, the Council shall adhere to their affirmative marketing regulations of these agencies.

SUBCHAPTER 16. ACCESSORY APARTMENTS

5:92-16.1 General provisions

(a) Municipalities may provide zoning for the creation of affordable accessory apartment units.

(b) "Accessory apartment" means a self-contained residential dwelling unit containing its own kitchen, sanitary facilities, and private entrance, which is created within an existing home, or through the conversion of an existing accessory building on the same site, or by addition to an existing home or accessory building.

Case Notes

Accessory apartment rule, allowing municipality to include zoning for creation of affordable accessory apartments, was not invalid under Fair Housing Act. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

Affordable housing regulations did not violate Fair Housing Act. *Calton Homes, Inc. v. Council on Affordable Housing*, 244 N.J.Super. 438, 582 A.2d 1024 (A.D.1990), certification denied 127 N.J. 326, 604 A.2d 601.

5:92-16.2 Unit creation

(a) In determining that portion of its fair share obligation that it may allocate to accessory apartment, a municipality shall calculate one half of one percent (.005) of the base housing stock, multiplied by six years.

(b) For purposes of this section, the base housing stock shall be the number of dwelling units in the areas designated by the municipality for accessory apartments zoning that are of sufficient size and character, as determined by the Council, so as to permit conversion to an accessory apartment.

5:92-16.3 Conversion standards

(a) Any accessory apartment ordinance must insure compliance with all applicable zoning ordinances.

(b) Parking shall be provided for accessory apartment units.

(c) The creation of an accessory apartment shall not violate municipal on-site sewer requirements.

(d) An accessory apartment shall be considered rental rehabilitation and shall be subject to a 10 year affordability control pursuant to N.J.A.C. 5:92-12.2.

(e) The municipality shall provide a plan to promote the accessory apartment program for approval by the Council.

(f) An accessory apartment shall not be used in fulfillment of a municipality's rental component pursuant to N.J.A.C. 5:92-14.4 and is not eligible for rental bonus credits pursuant to N.J.A.C. 5:92-14.4(d).

5:92-16.4 Occupancy and marketing

(a) The municipality shall require that 50 percent of the accessory apartment units created be provided for low income households.

(b) The municipality shall insure that all accessory apartment units are affirmatively marketed pursuant to N.J.A.C. 5:92-15 et seq.

5:92-16.5 Terms

(a) Two years from the date of substantive certification, the municipality shall provide the Council with a report on the type and number of the created accessory apartment units.

(b) The municipality shall project the total in (a) above over the six year certification period to determine the total number of units expected to be created.

(c) If the total in (a) above is less than the total identified in the housing element, the municipality shall provide an alternative method of fulfilling the fair share obligation.

(d) If the alternate method adopted to fulfill the fair share obligation pursuant to (c) above involves the zoning of new sites, the municipality shall participate in any mediation sessions conducted by the Council.

(e) The municipality may provide a back-up plan to the accessory apartment program in the final housing element.

5:92-16.6 Applicability of subchapter

(a) The provisions of this subchapter shall be effective for those municipalities that have petitioned for certification prior to December 19, 1988.

(b) Municipalities that petition for certification subsequent to December 19, 1988 shall not utilize accessory apartments in addressing their fair share obligations.

New Rule, R.1988 d.566, effective December 19, 1988.
See: 20 N.J.R. 1673(b), 20 N.J.R. 3123(c).

SUBCHAPTER 17. REHABILITATION OF INDIGENOUS NEED**5:92-17.1 Rehabilitation cost standards**

Municipalities that choose to rehabilitate their indigenous need shall provide a minimum of \$10,000 per unit of which at least \$8,000 shall be allocated to actual capital costs. Municipalities shall be expected to expend all moneys provided for actual capital rehabilitation costs.

5:92-17.2 Annual monitoring reports

Municipalities that rehabilitate their indigenous need shall file annual monitoring reports with the Council.

5:92-17.3 Rehabilitation costs less than \$8,000

Municipalities may rehabilitate deficient units that meet the Council's criteria, even if the actual capital costs are less than \$8,000. However, at the end of each two year period, the rehabilitation shall average at least \$8,000 per unit.

SUBCHAPTER 18. DEVELOPMENT FEES

Law Review and Journal Commentaries

COAH Rules Permit Retroactive Fee Ordinances, Thomas F. Carroll, III, 135 N.J.L.J. No. 7, 56 (1993).

5:92-18.1 Purpose

(a) The New Jersey Supreme Court, in *Holmdel Builder's Ass'n v. Holmdel Township*, 121 N.J. 550 (1990) (issued December 13, 1990), determined that mandatory development fees are both statutorily and constitutionally permissible. The Court further anticipated that the Council would promulgate appropriate development fee rules specifying, among other things, the standards for these development fees. The purpose of this subchapter is to provide such guidance.

(b) Except as otherwise provided to these rules, a municipality may only collect and spend development fees through participation in the Council's substantive certification process or through a comprehensive review designed to achieve a judgment of repose. The exceptions to this rule are set forth in N.J.A.C. 5:92-18.3 through 18.6 inclusive. These exceptions are permitted because some communities have already received substantive certification; others have achieved a judgment of repose; and still others are litigating exclusionary zoning cases. Some of these municipalities have already collected fees. The Council has created a process for these municipalities to collect and/or retain fees. However, in the future, the ability to collect and spend development fees shall be limited to municipalities that petition for substantive certification. Urban aid municipalities are also considered a special case. These municipalities have historically housed a disproportionate share of New Jersey's poor and, as a result, may have exceedingly high fair share obligations that would be extremely difficult to address in a six year period. Therefore, the Council will allow these municipalities to collect fees outside of substantive certification provided the municipality adheres to the rules in this subchapter. The rules that follow provide basic requirements for collecting and spending development fees. They then provide additional requirements for municipalities in various categories.

(c) While the rules that follow shall govern those municipalities that petition for substantive certification and urban aid cities, the Council will review development fee ordinances and plans to spend money upon the request of the court with jurisdiction in an exclusionary zoning lawsuit.

Case Notes

Judgment of repose had same effect as substantial certification through Council on Affordable Housing; developers not permitted to challenge court's approval of development fee ordinance in collateral proceedings. *Southport Development Group, Inc. v. Township of Wall*, 295 N.J.Super. 421, 685 A.2d 84 (L.1996).

5:92-18.2 Basic requirements

(a) Except as set forth in N.J.A.C. 5:92-18.3 through 18.6 inclusive, the Council shall not review or approve any development fee ordinance unless the municipality has petitioned for substantive certification.

(b) No municipality shall collect development fees unless the municipality has adopted a housing element and the Council has approved its development fee ordinance.

(c) No municipality shall spend development fees unless the Council has approved a plan for spending such fees. With the exception provided for in N.J.A.C. 5:92-18.3, municipalities that have not received substantive certification shall not spend development fees until they have received substantive certification.

5:92-18.3 Urban aid municipalities

Municipalities that qualify for state aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) shall not collect or spend development fees without conforming to the requirements set forth in N.J.A.C. 5:92-18.2. Council approval of the municipal development fee ordinance shall allow the municipality to collect development fees for a period specified by the Council not to exceed six years, commencing with the Council's approval of the development fee ordinance. Notwithstanding any other provision of this Chapter, these municipalities shall have one year from the Council's approval of their development fee ordinance to submit a plan for spending development fees. These municipalities may collect and spend development fees without petitioning for substantive certification.

5:92-18.4 Municipalities that collected fees and received certification

(a) This rule deals with the category of municipalities that have collected development fees prior to December 13, 1990 and have received substantive certification. These municipalities may petition the Council to review and approve an ordinance regarding development fees collected prior to December 13, 1990. The Council may approve such ordinance, provided it conforms to the procedures in N.J.A.C. 5:92-18.8, Development fee ordinance review and N.J.A.C. 5:91-15, Procedures for retaining development fees.

(b) The municipalities in this category shall not resume collecting development fees or spend development fees without conforming to N.J.A.C. 5:92-18.2.

(c) Notwithstanding any other provision of this chapter, the municipalities in this category shall submit plans to spend the development fees (regardless of when these fees were collected) prior to the expiration of their substantive certification periods.

5:92-18.5 Municipalities that collected fees and are proceeding toward certification

(a) This rule deals with the category of municipalities that have collected development fees prior to December 13, 1990 and have petitioned for substantive certification. These municipalities may petition the Council to review and approve an ordinance regarding development fees collected prior to December 13, 1990. The Council may approve such ordinance provided they conform to the procedures in N.J.A.C. 5:92-18.8, Development fee ordinance review, and N.J.A.C. 5:91-15, Procedures for retaining development fees.

(b) The municipalities in this category shall not resume collecting development fees or spend development fees without conforming to N.J.A.C. 5:92-18.2.

(c) Notwithstanding any other provision of this chapter, municipalities in this category shall submit plans to spend the development fees and receive approval of these plans prior to receiving substantive certification.

5:92-18.6 Municipalities that have not collected fees that have received substantive certification, or are proceeding toward substantive certification

(a) This rule deals with municipalities that have not collected development fees and that have received substantive certification or are proceeding toward substantive certification. Municipalities in this category shall not collect fees until they have adopted a housing element and received the Council's approval of its development fee ordinance. No municipality in this category shall spend development fees unless the Council has approved a plan for spending such fees.

(b) Municipalities that have not received substantive certification shall submit plans for spending the development fees and receive approval for these plans prior to receiving substantive certification.

(c) Notwithstanding any provision of this chapter, municipalities in this category that have received substantive certification shall submit plans for spending the development fees prior to the expiration of the substantive certification period or period of repose.

5:92-18.7 Other municipalities that have not collected fees

(a) Except as provided for in N.J.A.C. 5:92-18.3 through 18.6 inclusive, municipalities that have not collected fees shall not collect fees until they have adopted a housing element, petitioned for substantive certification and received the Council's approval of its development fee ordinance.

(b) No municipality in this category may spend development fees unless the Council has approved a plan for spending such fees and granted substantive certification. Municipalities shall submit these plans when they petition for substantive certification. Municipalities that have petitioned for substantive certification prior to January 21, 1992 shall submit plans for spending development fees prior to receiving substantive certification.

5:92-18.8 Development fee ordinance review

(a) The Council shall not review a development fee ordinance unless the municipality has submitted:

1. A copy of an adopted housing element that complies with the Municipal Land Use Law, N.J.S.A. 40:55D et seq.;

2. A copy of the proposed ordinance designed to collect development fees;

3. A description of any changes to the municipal zoning ordinance during the previous two years;

4. A request in the form of a resolution by the governing body for the Council to review the development fee ordinance;

5. If the municipality has received a court ordered judgment of repose, a copy of the compliance plan, implementation ordinances and information regarding the period of time encompassed by the judgment of repose;

6. A description of the types of developments that will be subject to fees;

7. A description of the amount and nature of the fees imposed;

8. A statement regarding the use of density bonuses or other devices to counterbalance development fees; and

9. If development fees have been collected prior to December 13, 1990 and the municipality wishes to retain some or all of these fees, the following information must be submitted to the Council by April 20, 1992:

i. A copy of the ordinance pursuant to which the fees were collected; and the proposed ordinance, if any, designed to reimpose some or all of these fees;

ii. A request in the form of a resolution by the governing body for the Council to review the development fee ordinance used to collect the fees;

iii. The name of each developer that paid a development fee;

iv. The amount paid by each developer and the formula for the amount collected;

v. The equalized assessed value of each development at the time of collection;

vi. An accounting of all money collected and identification of the municipal account that houses all development fees;

vii. If any money collected through a development fee ordinance has been spent, an accounting of the expenditure; and

viii. Any other information the Council may require.

(b) Municipalities that collected fees prior to December 13, 1990, shall be able to retain such revenues or reimpose such fees to the extent that the fees collected by the municipality do not exceed the amount permitted under these regulations. Municipalities interested in retaining development fees collected prior to December 13, 1990 shall also conform to the procedures outlined in N.J.A.C. 5:91-15 (Procedures for Retaining Development Fees).

5:92-18.9 Content of plans to spend development fees

Plans to spend development fees shall consist of the information required by N.J.A.C. 5:92-1.4(b).

5:92-18.10 Development fees; residential

(a) Residential development fees shall be a maximum of one-half of one percent of the equalized assessed value for residential development, provided no increased density is permitted.

(b) Where there is a zoning change that permits increased residential development, the municipality may impose a development fee of up to six percent of the equalized assessed value for each additional unit that may be realized as a result of the rezoning. Example: if a rezoning allowed two extra units to be constructed, the fees could equal one-half of one percent of equalized assessed value on the first units and six percent of equalized assessed value on the two incremental units.

(c) Municipalities may allow developers of sites zoned for inclusionary development to pay a fee in lieu of building low and moderate income units provided the Council determines the municipal housing element and fair share plan provides a realistic opportunity for addressing the municipal fair share obligation. The fee may equal the cost of subsidizing the low and moderate income units that are replaced by the development fee. For example, an inclusionary development may include a 20 percent set-aside, no set-aside and a fee that is the equivalent of a 20 percent set-aside or a combination of a fee and set-aside that is the equivalent of a 20 percent set-aside.

(d) Municipalities may collect fees exceeding those permitted in this section provided they enter into agreements with developers that offer a financial incentive for paying higher fees. The financial incentive may be in the form of a tax abatement. No agreement may provide for a voluntary developer fee without also providing for a comparable offsetting incentive. All agreements are subject to Council approval.

5:92-18.11 Development fees; non-residential

(a) Non-residential development fees shall be a maximum of one percent of the equalized assessed value for non-residential development.

(b) Municipalities may collect fees exceeding those permitted in this section provided they enter into agreements with developers that offer a financial incentive for paying

higher fees. Such agreements may include, but are not limited to, a tax abatement, increased commercial/industrial square footage, increased commercial/industrial lot coverage and/or increased commercial/industrial impervious coverage in return for an increased fee. The fee negotiated must bear a reasonable relationship to the additional commercial/industrial consideration to be received. All agreements are subject to Council approval.

5:92-18.12 Eligible exactions, ineligible exactions and exemptions

(a) Except as provided for in N.J.A.C. 5:92-18.10, inclusionary developments shall be exempt from development fees. All other forms of new construction may be subject to development fees.

(b) Development fees may be collected when an existing structure is expanded or undergoes a more intense use. The development fee that may be collected shall be calculated on the increase in the equalized assessed value of the improved structure.

(c) Municipalities shall not reduce densities from pre-existing levels and then require developers to pay development fees in exchange for an increased density.

(d) Developments that have received preliminary or final approval or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval. Municipalities that collected development fees prior to December 13, 1990 may not retain any fees imposed subsequent to granting preliminary or final development approval, unless the developer seeks a substantial change in the approval.

(e) Municipalities may exempt specific types of development from fees or may impose lower fees for specific types of development, provided each classification of development is addressed consistently. For example, all retail development may be exempt from fees.

(f) Municipalities may exempt specific areas of the municipality from the imposition of fees or reduce fees in order to promote development in specific areas of the municipality.

5:92-18.13 Collection of fees

Municipalities may collect up to 50 percent of the fee on any specific development at the time of issuance of the building permit. The remaining portion may be collected at the issuance of the certificate of occupancy.

5:92-18.14 Housing trust fund

All development fees shall be deposited in a separate interest bearing housing trust fund. In establishing the housing trust fund, the municipality shall provide whatever express written authorization that may be required by the bank to permit the Council to direct the disbursement of development fees pursuant to N.J.A.C. 5:92-18.17 and 18.18.

5:92-18.15 Use of money

(a) A municipality may use revenues collected from development fees for any activity approved by the Council for addressing the municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, regional contribution agreements, purchase of land for low and moderate income housing, improvement of land to be used for low and moderate income housing, extensions and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units to be more affordable and administration of the implementation of the housing element. Municipalities are encouraged to use development fee revenues to attract other funds such as, but not limited to, available public subsidies and funds from private lending institutions.

(b) Funds shall not be expended to reimburse municipalities for past housing activities.

(c) At least 30 percent of the revenues collected from development fees shall be devoted to render units more affordable. Examples of such activities include, but are not limited to: downpayment assistance, low interest loans, and rental assistance. This requirement may be waived in whole or in part when the municipality demonstrates the ability to address the requirement of affordability assistance from another source.

(d) Municipalities may contract with a private or public entity to administer the implementation of any part of its housing element, including the requirement for affordability assistance.

(e) No more than 20 percent of the revenues collected from development fees shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement: a rehabilitation program; a new construction program; a regional contribution agreement; a housing element; and an affirmative marketing program. Administrative funds may be used for: income qualification of households; monitoring the turnover of sale and rental units; and compliance with Council monitoring requirements. Development fees shall not be used to defray the costs of existing staff.

5:92-18.16 Monitoring

Municipalities that collect development fees shall complete and return all monitoring forms related to the collection of fees, expenditure of revenues and implementation of the plan certified by the Council or approved by the court. Quarterly financial reports, and annual program implementation and auditing reports, shall be completed on forms designed by the Council.

5:92-18.17 Penalties

(a) The municipality's ability to collect fees and the Council's approval of an ordinance and spending plan shall be conditioned on compliance with all requirements of this subchapter. Occurrence of the following may result in the Council taking an action pursuant to (b) below:

1. Failure to submit a plan pursuant to N.J.A.C. 5:92-1.4(b) within the time limits imposed by the Council;
2. Failure to meet deadlines for information required by the Council in its review of a housing element, development fee ordinance, or plan for spending fees;
3. Failure to proceed through the Council's administrative process toward substantive certification in a timely manner;
4. Failure to address the Council's conditions for approval of a plan to spend development fees within the deadlines imposed by the Council;
5. Failure to address the Council's conditions for substantive certification within deadlines imposed by the Council;
6. Failure to submit accurate monitoring reports within the time limits imposed by the Council;
7. Failure to implement the plan to spend development fees within the time limits imposed by the Council, or within reasonable extensions granted by the Council;
8. Expenditure of development fees on activities not permitted by the Council;
9. Revocation of certification; or
10. Other good cause demonstrating that the revenues are not being used for the intended purpose.

(b) Consistent with this rule, any ordinance adopted by a municipality for the purpose of imposing and collecting development fees shall provide that, in the event that any of the conditions described in N.J.A.C. 5:92-18.17(a) occur, the Council shall be authorized, on behalf of the municipality, to direct the manner in which all development fees collected pursuant to that ordinance shall be expended. Should any such condition occur, such revenues shall immediately become available for expenditure at the direction of the Council upon the municipal clerk's receipt of written notification from the Council that such a condition has occurred. In furtherance of the foregoing, any such municipality shall, in establishing a bank account pursuant to N.J.A.C. 5:92-18.14, ensure that the municipality has provided whatever express written authorization may be required by the bank to permit the Council to direct the disbursement of such revenues from the account following the delivery to the bank of the aforementioned written notification provided by the Council to the municipality's clerk.

(c) The Council may, after hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., revoke development fee ordinance approval for any municipality that fails to comply with the requirements of this subchapter. Where such approval has been revoked, the Council shall not approve an ordinance permitting such municipality to collect development fees for the remaining period of the substantive certification period. With regard to municipalities that qualify for state aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) the Council shall not approve any ordinance permitting such municipalities to collect development fees for the remainder of the approval period (of up to six years) following a Council determination that they failed to comply with this subchapter.

(d) Neither loss of development fees, nor loss of the municipality's ability to collect development fees shall alter the municipality's responsibilities pursuant to substantive certification.

5:92-18.18 Designation of entities to receive development fees

(a) The Council shall solicit plans from public sector entities and non-profit agencies to create or rehabilitate affordable housing.

(b) The Council shall designate such agencies to receive revenues from development fees when the Council takes an action pursuant to N.J.A.C. 5:92-18.17.

(c) To the extent practicable, when the Council takes an action pursuant to N.J.A.C. 5:92-18.17, the Council shall assign development fee revenues to projects planned within the municipality that generated the revenues or within close proximity to the municipality (such as within the county or region).

5:92-18.19 Ongoing collection of fees

(a) Municipalities that qualify for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) and have received Council approval to collect development fees, shall not collect such fees for more than the period specified by the Council, not to exceed a six year period unless the municipality has refiled an adopted housing element with the Council and received the Council's approval of its development fee ordinance. These municipalities shall submit a plan for spending development fees within one year of the Council's approval of their development fee ordinance. Municipalities that fail to renew their ability to collect development fees within the six year period may resume the collection of development fees by complying with the requirements of this section.

(b) Except as provided for in (a) above, the ability for all other municipalities to collect development fees shall expire with their substantive certification unless the municipality has filed an adopted housing element with the Council; petitioned for substantive certification; and received the

Council's approval of its development fee ordinance. Municipalities that fail to renew their ability to collect development fees prior to the expiration of their substantive certification may resume the collection of development fees by complying with the requirements of this section.

5:92-18.20 Severability

If any part of this subchapter shall be held invalid, the holding shall not affect the validity of the remaining parts of this subchapter. If any part of this subchapter is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

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APPENDIX A

Approach: 1987-1993 Low and Moderate
Income Housing Need Estimates
**COUNCIL ON AFFORDABLE HOUSING
1987-1993 LOW-AND MODERATE-INCOME
HOUSING NEED ESTIMATES**

**—
APPROACH**

**PRESENT NEED (2 INDICES)
REALLOCATED PRESENT NEED
(FAIR SHARE ALLOCATION FORMULA)
PRESENT NEED
PROSPECTIVE NEED
(FAIR SHARE ALLOCATION FORMULA)
TOTAL NEED
SUPPLY CONTRIBUTIONS
(FILTERING, RESIDENTIAL CONVERSION,
REHABILITATION, DEMOLITION)
PRE-CREDITED NEED**

Research Sponsor

Research Organization

THE PROCEDURES TO CALCULATE
LOW- AND MODERATE-INCOME
HOUSING NEED

Council on Affordable Housing
Rutgers University
Center for Urban Policy Research
Research Contacts
Principal Investigator
Arthur R. Kondrup, Chairman
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Date
1 May 1986

INTRODUCTION

The information which follows details the procedures and data resources employed to calculate low- and moderate-income housing need in the State of New Jersey. These procedures have evolved primarily since *Mount Laurel II*¹ and have been heavily influenced both by the provisions of the Fair Housing Act and *Mount Laurel III*.² The report incorporates the methodology adopted by the Council on Affordable Housing³—the agency charged with effecting the Fair Housing Act and bringing about statewide compliance with the *Mount Laurel* mandate.

The procedures specified here draw upon contributions by numerous groups to evolving fair housing implementation. These include efforts on the part of the *Mount Laurel II* judges, the Urban League group, Rutgers University, the appointed masters, the Department of the Public Advocate, the Governor's Office, New Jersey Department of Community Affairs, New Jersey Department of Environmental Protection (Division of Coastal Resources), New Jersey Pinelands Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Federation of Planning Officials, Land Use Section of the New Jersey Bar, New Jersey Builders Association, New Jersey State League of Municipalities, attorneys/planners for litigating developers/municipalities, and other individuals/groups too numerous to mention.

These groups have crafted a body of knowledge and procedure which has been drawn upon and refined in the production of this document. A clear effort has been made here to take into account varying points of view and above all, as the name of the Fair Housing Act implies, be *fair*: fair to those who need housing, to municipalities and their residents who must accommodate this housing, and finally, to the builders/developers who must provide it. The procedures contained here are an effort to move forward on a broad and unified front in meeting the charge of the Fair Housing Act.

To this end, the report begins with methods used to qualify the low- and moderate-income populations and subsequently deals with the calculation, distribution, and refinement of present and prospective low- and moderate-income housing need.

INCOME QUALIFICATION OF THE LOW- AND MODERATE-INCOME POPULATION

REGIONAL AND STATEWIDE

SUMMARY OF PRE-CREDITED NEED

1987-1993 LOW AND MODERATE NEED ESTIMATES BY STATE AND REGION

- HOUSING DEFICIENT PRESENT NEED-
- HISTORIC MODEL PROSPECTIVE NEED-
- FAIR SHARE PRESENT NEED ALLOCATION-
- FAIR SHARE PROSPECTIVE NEED ALLOCATION-

Accounting for:

Demolition, Filtering, Residential Conversion, and Spontaneous Rehabilitation

	1987 Present Need	1987-1993 Prospective Need
CALCULATING NEED		
Indigenous Need	85,134	
Reallocated Present Need	34,411	
Prospective Need	80,421	
Total Need	199,966	
Demolition	13,367	
Filtering	-51,004	
Residential Conversion	-12,102	
Spontaneous Rehabilitation	-4,520	
STATEWIDE PRE-CREDITED NEED	145,707*	
REGIONAL NEED		
Northeast	42,534	
Northwest	28,773	
West Central	14,720	
East Central	23,247	
Southwest	21,884	
South-Southwest	14,549	

* The Council on Affordable Housing is prepared to adjust municipal housing need such that precredited final need will not exceed twenty percent of a municipality's occupied housing units in 1987. This adjustment is to prevent a municipality from experiencing a drastically altered development pattern as per Section 7 of the Fair Housing Act. The adjustment, if pursued by all municipalities who qualify, will not diminish statewide need by more than 1421 housing units. See subsequent section on Capped Need.

Data from the 1980 New Jersey Public Use Sample⁴ (a five percent sample of all households in New Jersey taken by the U.S. Census Bureau) is used to qualify a household according to HUD Section 8⁵ family-income requirements. The Sample is comprised of computer tapes which contain records for a sample of housing units with information on the characteristics of each unit as well as the people who reside in these units. Information from this file makes it possible to initially eliminate all individuals living in institutions, group quarters, or as boarders/lodgers from potential low- and moderate-income housing demand. This removes from direct count those people who comprise prison/sanitarium, college, nursing home, boarders/boarding home, and other related populations.⁶

Sub-households and sub-families are not separately distinguished as this would double count existing housing deterioration and no information is available on how or if sub-families/sub-households would choose to separate in the future. Thus, one household per unit is counted. Current applications for low- and moderate-income housing built under the *Mount Laurel II* aegis indicate shares or parts of families and unrelated individuals seeking to reside together. This partially confirms continued, shared or unrelated household use of new low- and moderate-income housing units.

Once these selection procedures are undertaken, the Public Use Sample may be employed to array all households by size and income status. HUD median family income for a region is determined, and 80 percent and 50 percent assigned to household sizes of four for the upper limits of moderate and low incomes, respectively. Each household size of more or less than four is allowed a positive or negative adjustment of the 80 percent or 50 percent of median figure to qualify for moderate- or low-income designation.⁷ (This is based on the philosophy that if you have more children/dependents or household members you can earn slightly more and qualify for moderate/low income; in reverse fashion, if you have fewer dependents or members, it is more difficult to qualify by establishing a lower income for qualification.)

The procedure spelled out above separates low- and moderate-income households, adjusting for household size, from all other households in the region. This relative selection of a population qualifying for housing need forms the basis of all need estimates. In subsequent steps, the housing units occupied by these households are initially checked for deterioration to determine present need. The number of income-defined households is then projected into the future to determine prospective need. The detailing of these steps is explained below.

PRESENT NEED

Indigenous Need

Indigenous need is a component of present need which is the total deficient housing signaled by surrogates unique to each community. Where communities' deficient housing as a percentage of all occupied housing units exceeds the regional average, their excess need is sent to a housing pool for subsequent distribution in the region. Housing from the pool is reallocated to all communities in the growth area of the region with the exception of designated Urban Aid Cities. The indigenous need for communities below the regional average of housing deficiency is their tabulated deficient units. For those above the regional average, their indigenous need is their deficient housing capped by the regional average percent deterioration.

Recognizing the evolution of the concept of deteriorated housing from 1960 and earlier where enumerators attempted to physically identify bad housing from field survey, to the current period where deficient housing is isolated through housing quality surrogates, information provided by the *1980 Census* is used to signal housing deficiency via surrogates.⁸

Surrogates do not themselves confirm that a unit is deficient. They indicate that if a unit has these characteristics, it most likely would be independently found via field survey as deficient. Surrogates are developed by listing the characteristics of units found as deficient and viewing which characteristics consistently are associated with field-confirmed deficiency. Six housing quality surrogates are used with structure age to signal housing deficiency. These indices represent the culmination of numerous empirical studies on factors indicative of superior versus inferior housing quality.⁹ *They represent the full range of information available on housing quality from the 1980 Census.* No index is slighted, and all are simultaneously employed. They include:

(a) *Year Structure Built.* A distinction is made between units built before and after 1940. This pre-War cutoff is the classic differentiation point of new versus old housing in the literature.¹⁰

(1) *Persons per Room.* 1.01 or more persons per room is an index of overcrowding.

(2) *Access to Unit.* A unit is unacceptable if one must pass through another dwelling to enter it. This is a measure of privacy.

(3) *Plumbing Facilities.* A household must have exclusive use of complete plumbing facilities.

(4) *Kitchen Facilities.* Adequate kitchen facilities include a sink with piped water, a stove, and a refrigerator.

(5) *Heating Facilities.* The existence of central heat is used as a measure of adequacy.

(6) *Elevator.* Buildings of four stories or more are considered inadequate if they do not have an elevator.

A unit has to have at least two characteristics to be isolated as deficient once it qualifies as housing a low- or moderate-income family. Since age is so highly correlated with structure deterioration and loss, if in 1980 the unit was more than forty years old and had at least one other negative housing characteristic, it is selected as deficient. If, on the other hand, it was a newer unit in 1980, in the absence of the unit-age qualification, two or more negative structural characteristics signal housing deficiency.

Multiple deficient characteristics in a single housing unit is an important concept. Using multiple indicators results in a high probability of isolating bad housing, yet a very low probability of classifying good housing as bad.¹¹

This procedure of establishing housing deficiency is: (1) drawn from the literature of the field; (2) encompasses a broad array of physical insufficiency including such items as indirect access, incomplete kitchen, burdensome walk-ups, etc., (3) ensures against erroneous inclusion of good units, and (4) provides a very high probability that the housing identified, at least in relative terms, is clearly less than adequate.

Due to confidentiality protection and data availability, the procedure to specify indigenous need can be estimated only to each of 52 subregions of the state.¹² It is taken down to the community level by three housing quality variables available at both the subregional level and the community level. These are:¹³

(1) Plumbing Facilities—non-exclusive use of complete plumbing;

(2) Heating Facilities—non-presence of central heat or vented room heaters; and

(3) Persons per Room—space inadequacy, i.e., 1.01 or more persons per room.

The pool of low- and moderate-income families living in deficient housing once calculated at the subregional level is distributed to individual communities on the basis of the share of three indices of deficient housing at the local level to the total at the regional level. At the local level, these latter variables cannot be cross-tabulated with age or income in the same way as information at the subregional level can. Thus, the best available information and the most rigorous procedures are used to isolate deficient housing at the subregional level, and this is taken to the municipal level through other housing quality variables less complete in terms of isolating housing deficiency but found at a variety of geographic levels.¹⁴

In order to address present need with some lead time appropriate for planning and implementation, present need is actually projected to be estimated as if July 1, 1987 where the current period and the sample of housing deficiencies was taking place at this time. This is done by reproducing the incidence rates of deterioration associated with certain age groups and household types in 1980, and projecting these households and their associated housing conditions to the 1987 period. The new array and number of households in 1987 carry with them the deterioration noted in 1980.

* Communities which originally contributed to the pool due to excess deficiency, if not selected Urban Aid Cities, can receive additional units

As noted earlier, for communities with severe housing deficiencies, their deficiencies are capped at the regional average percentage of deficiencies as a proportion of total occupied housing. The excess over this regional percentage is distributed to all communities in the growth area of the region.* This is covered below.

Municipal surveys to determine indigenous need may be presented to the Council as an alternative method to this procedure. (See Section 10—Fair Housing Act.) The Council will provide guidance as to the appropriate form and scale of such surveys.

INDIGENOUS NEED BY REGION†

Northeast	34,227
Northwest	22,894
West Central	7,486
East Central	4,692
Southwest	9,208
South-Southwest	6,627
STATE TOTAL	85,134

† See the following figure for mapped display of regions

Reallocated Present Need

Reallocated present need is the share of excess deterioration in a region transferred to all communities in the growth area of the region with the exception of selected Urban Aid Cities. (See Attachment.) Urban Aid Cities, almost all of which are densely populated and have a higher-than-average proportion of low- and moderate-income families living in deteriorated housing, are not expected to have this regional burden reinforced by future low- and moderate-income housing requirements.¹⁵ Therefore, when the reallocated present need pool for the region is computed from an average deficiency percentage for the entire region, Urban Aid Cities are not expected to share in that pool. Instead, the excess of deficient units over the regional percentage of deficiencies is redistributed to all municipalities with any growth area in the region. The exact procedure for redistribution is covered under Distribution of Low- and Moderate-Income Housing Need.

REALLOCATED PRESENT NEED BY REGION

Northeast	17,676
Northwest	8,829
West Central	1,631
East Central	750
Southwest	4,060
South-Southwest	1,465
STATE TOTAL	34,411

from the pool via the reallocation formula.

PRESENT NEED

Present need is the sum of indigenous and reallocated present need in a municipality. It represents individual municipal housing responsibility reflective of its own housing inadequacy/deficiency (except where it is regionally excessive) and regional responsibilities in terms of its share of the pool of housing replacement/repair that must be undertaken by growth area communities due to excess deterioration in the region.

PRESENT NEED BY REGION

Northeast	51,903
Northwest	31,723
West Central	9,117
East Central	5,442
Southwest	13,268
South-Southwest	8,092
STATE TOTAL	119,545

PROSPECTIVE NEED

Prospective need is the share of the total projected population that will qualify for low- and moderate-income housing. It is obtained by projecting the population by age cohort from 1987 to 1993 through the following steps:

(1) A 1987 base is established by bounding it at one end by the age cohort distributions of the *1984 Population Estimates for New Jersey*¹⁶ from the New Jersey Department of Labor.* The other end is bounded by the distribution of the projected population for 1990 by age cohort under the New Jersey Department of Labor's Historical Migration Model.¹⁸ These two population distributions by each age cohort are added together and divided by two to obtain the age distribution of the base population for the mid-period 1987.

(2) A July 1, 1993 projection-year end is also arrayed by age distribution. This is done in the following way:

(a) 1990 and 1995 age distributions for the New Jersey Department of Labor's Historical Migration Model are distributed by their respective eight age cohorts and three-fifths of the distance between 1990 and 1995 is used for each age cohort for 1993. The age cohorts are as follows:

AGE COHORT

- Less than 25 years
- 25-29 years
- 30-34 years
- 35-44 years
- 45-54 years
- 55-64 years
- 65-74 years
- 75 years and over

* These are available by county from the New Jersey Department of

(3) Both the population age cohorts for the base year (1987) and the projection-end year (1993) are multiplied by 1980 New Jersey county-specific headship rates by age cohort.¹⁹ Two distributions of total households emerge.

(4) Total households for each period are converted to low- and moderate-income households by carrying forward the income characteristics of all households in 1980 to 1987 and 1993 by age cohort. Low- and moderate-income households are sorted by applying the Section 8 household size/income qualification criteria that were used in 1980 to a different number of households that exist in each cohort in 1987 and 1993. Thus, to the degree that age cohorts are differently composed and growing differently, the low- and moderate-income population will also change as it ages into the future.

(5) Low- and moderate-income households for 1987 are subtracted from low- and moderate-income households in 1993 to obtain the change in low- and moderate-income households from 1987 to 1993. This is done for eight age cohorts specific to each of 21 counties. The result is prospective low- and moderate-income housing need.

PROSPECTIVE NEED BY REGION

Northeast	5,509
Northwest	9,759
West Central	13,661
East Central	23,752
Southwest	18,179
South-Southwest	9,561
STATE TOTAL	80,421

DISTRIBUTION OF LOW- AND MODERATE-INCOME HOUSING NEED

Low- and moderate-income housing need is distributed to each community using the economic and land-use factors listed below. These factors in the first two cases represent measures of *responsibility*, i.e., the labor force drawn to the municipality needing housing. In the second two cases, they represent measures of *capacity*, i.e., the physical and fiscal capacity to absorb and provide for such housing.²⁰ The first three factors are used to distribute *excess present need* (reallocated present need); the full four factors are used to distribute prospective need. The first three factors are identical for present and prospective need. All factors operate individually, are equally weighted, and involve only those municipalities in the growth area of the region.

(1) Regressed annual covered employment change within a municipality over the period 1977-84, as a percentage of regional regressed annual covered employment change for the same period (this is the most stable period to measure change in employment)²¹

Health.¹⁷

(2) Covered employment in a municipality as a percentage of regional covered employment (1984)

(3) Municipal area in the growth areas as a percentage of growth area in the region as included on the official State Department Guide Plan (SDGP).²² Pinelands and Coastal Zone areas are added to the SDGP Growth Area according to the following designations:²³

(a) Pinelands—All areas in Regional Growth Areas and Pinelands Towns.

(b) Coastal Zone—All areas in Development Regions and Extension Regions, the latter including Central Corridor Barrier Islands.

(4) Municipal 1983/1984 aggregate per capita income as a percentage of 1983/1984 regional aggregate per capita income * ²⁴

Neither prospective need nor reallocated present need are directed to Urban Aid municipalities which have the characteristics of older core areas to avoid reconcentrations of low- and moderate-income families in these fiscally/economically stressed locations.²⁵

The criteria for determining the Urban Aid municipalities to be exempt from any housing need beyond indigenous need are summarized as follows:²⁶

(a) Designated "Urban Aid" by the State as of July 1, 1986. In addition, they must meet *one* of the following:

(1) Level of existing low- and moderate-income housing deficiency, according to the six housing deficiency criteria, that exceeds average regional low- and moderate-income housing deficiency for the region in which the Urban Aid municipality is located

* 1983/1984 aggregate per capita income is obtained by multiplying 1983 per capita income by the 1984 Population Estimates for the growth area municipality and all municipalities in the growth area of the

(2) Population density of greater than 10,000 persons per square mile or 14.1 per acre

(3) Population density of 6,000 to 10,000 persons per square mile or 9.4 to 14.1 per acre *plus* less than five percent of vacant, non-farm, municipal land as measured by the average of the percentage of vacant land valuation and vacant land parcels of all local land valuation/parcels in the 1984 Statement of Financial Condition of Counties and Municipalities (Trenton, NJ: New Jersey Department of Community Affairs, 1985).²⁷

TOTAL NEED

Total need 1987 to 1993 is composed of indigenous need, reallocated present need, and prospective need. It is the total municipal need number before demand increases for demolitions and demand reductions for secondary sources of supply are introduced. In a very few cases, negative prospective need in a community, reflective of reduced housing demand due to employment loss, lessens present need demand and, as such, reduces total need.

TOTAL NEED (PRESENT AND PROSPECTIVE)

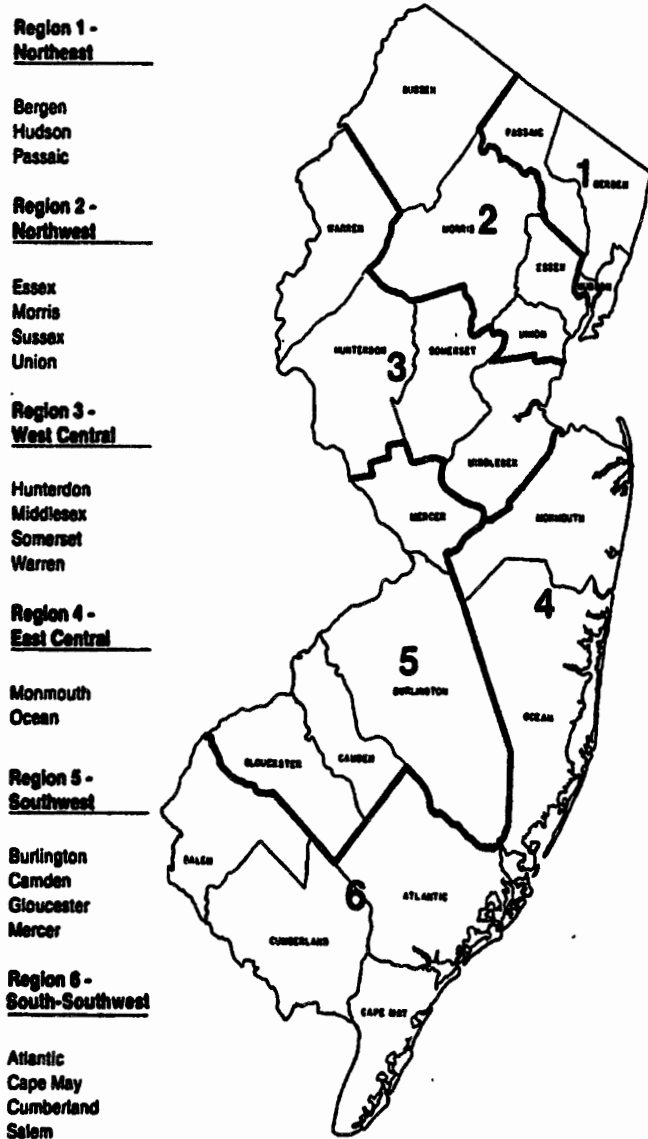
BY REGION

Northeast	57,412
Northwest	41,482
West Central	22,778
East Central	29,194
Southwest	31,447
South-Southwest	17,653
STATE TOTAL	199,966

region.

FIGURE

THE COUNCIL ON AFFORDABLE HOUSING REGIONS



Source: RUTGERS UNIVERSITY Center for Urban Policy Research, Winter, 1983

SECONDARY SOURCES OF HOUSING SUPPLY/DEMAND

Background

Secondary sources of housing supply/demand reflect the adjustments of the housing market to the unevenness and spontaneity of primary supply/demand. As housing ages or as it falls prey to accident, natural disasters, or publicly/private initiated changes in land use, it may become obsolete and be removed from the stock. The term for this selective pruning is *demolition*. Demolitions occur regularly and affect various markets differently. In strong markets, demo-

litions are low; in weaker markets, they are proportionally higher. In both situations, demolitions add to future housing demand.

As housing is added by private developers to the upper and middle price categories of the stock, a large share of consumers who already occupy housing within the market are attracted to this housing. When they occupy the new housing through purchase or rental agreements, they release housing within the local market that is inferior to the new housing that has been built. This causes housing to be available to a lower round of consumers, often at a reduced price. The process is termed *filtering*. Filtering reduces future demand as a greater proportion of formerly higher priced housing is now available at potentially lower prices. Filtering takes place in active housing markets, especially those receiving a significant influx of new housing.

In selected submarkets, a demand may exist for smaller units, and this need may not be responded to by normal market operations. The market adjusts to this need by creating additional smaller units from larger ones. This is termed *residential conversion* and most often occurs in housing stocks containing larger structures that can be adapted to smaller units yet not destroy or significantly alter the value of adjacent units in the process. The older, urban two- to four-family home is an ideal conversion unit. Four or six units may be created where only one-half this number may have existed in this type of structure previously. Often these units are termed illegal conversions, not because they are not safe, sound housing, but rather because the enlarged structure no longer conforms to the unit restrictions of the zoning ordinance.

Another characteristic of the housing market is for deficient units to be upgraded privately. This also lessens housing demand as a deficient unit is replaced by a sound unit. This happens usually because a market exists for the renovated structure, usually at a higher occupancy cost than when the structure fell into disrepair. *Spontaneous rehabilitation*, as it is called, occurs in stronger, growing markets and affects only a small proportion of the low- and moderate-income housing stock.

Procedures

In the earlier-discussed allocation and reallocation procedures, only those municipalities in the growth area participated. *In the reductions or increases to housing need due to secondary supply and demand, all locations participate.* This is true because all municipalities have some type of need, and reductions apply to housing need no matter how the need is generated. Thus, when demand reductions due to filtering are calculated, the reduction for a particular location is based on the share of *all* multifamily units in the region.

For Urban Aid Cities, the demand reductions are taken before these areas send excess need to the reallocation pool; for all other locations, demand reductions are taken after this point. This is to prevent other less-dense, less-deteriorated, inner-ring cities from receiving a large share of reallocated need without an equivalent chance to participate in secondary demand reductions due to specific characteristics of their housing stock.

Demolitions

Demolitions are a secondary source of housing demand in that demand is created by households requiring housing because units are lost from the stock. Housing units are lost due to fire, structure abandonment, road improvements, community renewal, land-use change, and other reasons.²⁸ It is estimated that units lost from the low- and moderate-income stock (both reported and unreported demolitions) are on a par with those added to the stock due to conversion. For the entire housing stock, the ratio of demolitions to conversions may be even higher.²⁹ It is also true that the level of demolitions is falling in New Jersey. At the beginning of the decade, total reported demolitions for New Jersey municipalities were 4,000-5,000 per year; towards mid-decade the total is closer to 3,000 annually.³⁰

In order to estimate the scale of demolitions, reported demolitions for each municipality for the years 1983 and 1984 are averaged and multiplied by six to obtain a six-year demolition estimate by municipality. These are representative years which catch the most recent aspects of the trend in demolitions.³¹ Demolitions are adjusted for each municipality to the share of all demolitions that affect the low- and moderate-income housing sector by 150 percent of the subregional share of low- and moderate-income housing. This percentage share of all demolitions that affect low- and moderate-income families is capped at 95 percent. Total demolitions are thus tallied by individual community, and the share affecting low- and moderate-income housing is estimated by a multiple of the subregional low- and moderate-income housing deficiency percentage. This latter factor recognizes that demolitions take place at a much higher rate in the low- and moderate-income housing sector than for all housing locally. Demolitions at a statewide level are essentially offset by conversions for low- and moderate-income households. This latter relationship is covered more fully in a subsequent section.

DEMOLITION HOUSING NEED BY REGION

Northeast	4,037
Northwest	4,350
West Central	365
East Central	870
Southwest	1,753
South-Southwest	1,992
STATE TOTAL	13,367

Filtering

Filtering is a downward adjustment of housing which recognizes that the housing requirements of lower-income groups can be served by supply additions to the higher-income sectors of the housing market.³² During the course of normal market operations, middle- and upper-income households vacate existing housing for new, more desirable units, leaving their units vacant for households of lesser income. Filtering is predicated on the existence of housing surpluses which cause housing prices to drop because of the excess of housing supply over demand.

Filtering is measured using *The American (Annual) Housing Survey* over the nine-year period 1974-1983. *The American (Annual) Housing Survey* sponsored jointly by the U.S. Department of Housing and Urban Development and the U.S. Department of Commerce is particularly useful in that the same unit is measured at various intervals.³³ By specifying Section 8 income eligibility by household size for the years in question, two components of the household population can be specified: those households that meet the *Mount Laurel II* income requirements, and those households whose incomes are above the *Mount Laurel II* income requirements for each observation period.

Viewing the same housing units, it is found that the net filtering (units moving down minus units moving up) to the lower-income population in New Jersey is about 6.5 percent over the course of the observation period.³⁴ About 18.8 percent of the stock moves down, and 12.3 percent moves up. The figure used for six-year net filtering is 3.25 percent of the non-deteriorated, non-low- and moderate-income housing stock. The 3.25 percent figure is derived by multiplying the actual 4.32 percent six-year rate by 0.75. The latter accounts for those units which filtered down over the period and do not have the same range of affordability as those units that were continuously occupied by low- and moderate-income families. Further, by using the non-deteriorated portion of the housing stock, the units that are counted as moving downward are assumed to be of adequate housing quality. Thus, both affordability and housing condition are controlled for in the filtering estimate.

Through cross-tabulation analysis, and taking into account the dominance of single-family homes in New Jersey, filtering is found to be more active in those locations which have higher percentages of multifamily units, and much less active in locations where there are small percentages of multifamily units.³⁵ Even though filtering takes place to some degree in all locations, it is much more of an urban than suburban housing phenomenon.

Filtering for the period 1987 to 1993 is estimated by taking 3.25 percent of the 1987 non-deteriorated, non-low- and moderate-income housing stock by region and assigning this need reduction to communities within the region according to their share of multifamily housing units (two or more units) of the regions' total multifamily units. A community receives a filtering adjustment to the degree that it contains multifamily housing,* i.e., the most likely type of housing to filter down.

FILTERING HOUSING SUPPLY * BY REGION

Northeast	- 12,179
Northwest	- 12,661
West Central	- 7,121
East Central	- 6,114
Southwest	- 3,494
STATE TOTAL	- 51,004

Northwest	- 3,221
West Central	945
East Central	- 482
Southwest	- 1,383
South-Southwest	- 1,174
STATE TOTAL	- 12,102

Residential Conversion

Conversion is the creation of dwelling units from already existing structures. Almost all conversion consists of additional dwelling units being created from other residential units, and very rarely from nonresidential units. This type, termed residential conversion, is a significant and recognized source of housing supply to low- and moderate-income families. According to the U.S. Department of Housing and Urban Development, as family size has decreased over the past two decades, residential conversion creating multiple smaller units from larger units has also increased.³⁶

Converted units are measured through *American (Annual) Housing Survey* and the *Decennial Census*. Conversions are the difference between the net change in total housing units (end minus beginning of period), minus the net of housing units constructed and demolitions lost over the period. Residential conversion is equivalent to 15 percent of total units constructed over a decade and over double this percentage (i.e., 30 percent) of the low and moderate component of required total housing production.³⁷ It is estimated that units made available through conversion will reduce indigenous need by 18 percent during the six-year projection period. Residential conversion is closely related and distributed to municipalities on the basis of their percentage of two- to four-family structures.³⁸ Residential conversions influence housing supply at the regional level according to an observed share of indigenous need. They are distributed to municipalities within regions according to the presence of structure types conducive to conversion, i.e., two- or four-family units.*

Residential conversions to low- and moderate-income housing in normal markets are often on a par with demolitions for this income sector. In stronger markets, conversions are more than demolitions; in weaker markets, less. A statewide control of demolitions pairs this variable in approximate magnitude with that of total demolitions.

RESIDENTIAL CONVERSION HOUSING SUPPLY BY REGION

Northeast	- 4,897
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Spontaneous Rehabilitation

Spontaneous rehabilitation is the unsolicited private market reduction of housing need by structure rehabilitation sufficient to render the unit free of deficiencies.³⁹ Via the *American (Annual) Housing Survey*, over five interim years between 1974 and 1980, spontaneous rehabilitation can be measured by using as a surrogate more than \$200 spent on each of three of four categories of additions, alterations, replacements, or repairs during the course of a single year.⁴⁰ This spontaneous rehabilitation happens to about 1.1 percent of the deficient units occupied by low- and moderate-income households annually. For a six-year period, the figure is estimated to be 6.6 percent applied to indigenous need at the regional level.

The key factor associated with rehabilitation of deteriorated units is wealth of the area as interpreted through aggregate income. Reductions for spontaneous rehabilitation are given to each municipality according to the municipality's share of regional aggregate income.* Larger, less wealthy—and smaller, more affluent—communities will get some measure of a larger relative credit for potential rehabilitation because in the first case, there is more opportunity for rehabilitation to happen, and in the second, there is more money to support it.⁴¹

Spontaneous rehabilitation at this juncture should not be confused with rehabilitation as a meliorative housing strategy once final need is determined. Spontaneous rehabilitation is a reduction before final need is calculated due to the workings of the private market. Public, publicly assisted, or private rehabilitation as a housing strategy once need is determined is one of several means of response to that need and has nothing to do with the need reduction determined here.

SPONTANEOUS REHABILITATION HOUSING SUPPLY BY REGION

Northeast	- 1,839
Northwest	- 1,177
West Central	- 366
East Central	- 221
Southwest	- 499

* Secondary supply sources shown as negative demand contributors

* 1980 instead of 1987 is used as a base to tabulate the share of multifamily units as demolitions over the period 1980-1985 are not available by structure type. It is possible to estimate total 1987 occupied housing units, but the distribution by structure type cannot be accurately determined without demolition information by structure type.

* 1983/1984 aggregate per capita income is used for this ratio.

South-Southwest - 428
 STATE TOTAL -4,530
 (includes ten units which would have made total need in a community negative. This accounting measure allows the reduction for this factor to be 4,520.)

East Central 153
 Southwest 130
 South-Southwest 676
 STATE TOTAL 1,421

ATTACHMENT

1986 URBAN AID CITIES BY COUNTY THAT MEET THE CRITERIA SPECIFIED UNDER DISTRIBUTION OF NEED *

PRE-CREDITED NEED

Pre-Credited Need is the municipality's estimated obligation under the *Mount Laurel* mandate for the period 1987 to 1993. Relative to other municipalities, and taking into account past growth, growth designation/share, and aggregate income, this is the need to which the municipality must address itself. Under Section 7 of the Fair Housing Act, municipalities may take credit for past provision of public or publicly assisted housing. Pre-Credited Need may be addressed via new construction or a level of rehabilitation to render the deteriorated units adequate. It is a need which, if it is less than 1,000, must be addressed within a six-year period; yet, if more than 1,000, may be spread out over a longer period as per subsequent phasing rules. Pre-Credited Need is solely the low- and moderate-income housing number and does not address the number of market units that might have to be built to support the development of the low- and moderate-income units locally.

PRE-CREDITED NEED BY REGION

Northeast	42,534
Northwest	28,773
West Central	14,720
East Central	23,247
Southwest	21,884
South-Southwest	14,549
STATE TOTAL	145,707

CAPPED NEED

Low- and moderate-income housing need in a community is capped at 20 percent of occupied housing units in 1987. Should density bonuses be applied and the community actively pursued by developers, under the provision of the 20-percent CAP no community will be required to double over the projection period. The small reduction in need that this capping procedure provides prevents the smaller communities in a region from experiencing significant change while complying with the state's low- and moderate-income housing mandate. Capped need is not a part of a municipality's pre-credited need estimate as this credit (if applicable) may be applied for during the municipal adjustment process.

CAPPED NEED BY REGION

Northeast	404
Northwest	24
West Central	34

ATLANTIC
None

BERGEN
Lodi Borough
Garfield City

BURLINGTON
Pemberton Township

CAMDEN
Camden City

CAPE MAY
None

CUMBERLAND
Vineland City
Bridgeton City

ESSEX
Belleville Township
Bloomfield Township
East Orange City
Irvington Township
Montclair Township
Newark City
Orange Township

GLOUCESTER
Deptford Township

HUDSON
Bayonne City
Hoboken City
Jersey City (City)
North Bergen Township
Union City (City)
Weehawken Township
West New York Town

HUNTERDON
None

MERCER
Trenton City

MIDDLESEX
Carteret Borough
New Brunswick City
Perth Amboy City

MONMOUTH
Asbury Park City
Keansburg Borough
Long Branch City

Neptune Township

MORRIS
None

OCEAN
Lakewood Township

PASSAIC
Passaic City
Paterson City

SALEM
None

SOMERSET
None

SUSSEX
None

UNION
Elizabeth City
Hillside Township
Plainfield City
Roselle Borough

WARREN
Phillipsburg Town

* These cities do not receive either Reallocated Present Need or Prospective Need

NOTES

¹ *Southern Burlington County NAACP v. The Township of Mount Laurel*, 67 N.J. 151, 336 A.2d 713, Appeal Dismissed and Cert. Denied, 423 U.S. 808 (1975) (*Mount Laurel I*); *Southern Burlington County NAACP v. The Township of Mount Laurel*, 92 N.J. 158, 456 A.2d 390 (1983) (*Mount Laurel II*).

² Fair Housing Act, Chapter 222 of the Laws of 1985; *Hills Development Corp. v. Township of Bernards*, Docket No. A.122-85 (N.J. Sup. Ct., February 20, 1986) (*Mount Laurel III*).

³ *Ibid.*

⁴ U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey* (Washington, D.C.: U.S. Government Printing Office, 1982).

⁵ United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), Section 3(b)(2).

⁶ U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.

⁷ 42 U.S.C. 1401, Section 3(b)(2).

⁸ See, for example, U.S. Bureau of the Census, *Measuring the Quality of Housing: An Appraisal of Census Statistics and Methods* (Washington, D.C.: Government Printing Office, 1967); and U.S. Bureau of the Census, *A Preliminary Look at the Results of the Five City Survey* (Washington, D.C., July 9, 1975).

⁹ W. Patrick Beaton, "The Use of Combinatorial Indices in Housing Quality Specification." Paper presented to the October 1984 meeting of the ACSP Conference, New York. W. Patrick Beaton, "Quality Judgments, Quality Analysis, and Housing Policy Analysis" (unpublished paper). Beaton's data are derived from the probabilities of the *Five City Study* (see Note 8).

¹⁰ Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing* (New Brunswick, NJ: Center for Urban Policy Research, 1983), p. 112.

¹¹ *Ibid.*, Chapter 2, Appendix I, p. 141; Beaton, "The Use of Combinatorial Indices in Housing Quality Specification."

¹² U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.

¹³ U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing* (Washington, D.C.: U.S. Government Printing Office, 1982).

¹⁴ See *Countryside Properties, Inc. et al. v. Mayor and Council of the Borough of Ringwood and Planning Board of Ringwood et al.*, Law Division, Docket No. L-42095-81, July 24, 1984.

¹⁵ See, for example, New Jersey Department of Community Affairs, Division of State and Regional Planning: *A Revised Statewide Housing Allocation Report for New Jersey* (Trenton, NJ: Division of State and Regional Planning, 1978).

¹⁶ State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Estimates for New Jersey, July 1, 1984* (Trenton, NJ: Division of Planning and Research, September 1985).

¹⁷ *State of New Jersey, Department of Health, New Jersey State and County Population Estimates by Age, Sex, and Race* (Trenton, NJ: Center for Health Statistics, October 1985).

¹⁸ State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Projections—New Jersey and Counties: 1990 to 2020* (Trenton, NJ: Division of Planning and Research, November 1985).

¹⁹ U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.

²⁰ For discussion of fair share allocation criteria, see New Jersey Department of Community Affairs, "Fair Housing Act Issue Papers" (Trenton, NJ: Division of Housing and Development, January 10, 1986); New Jersey Department of Community Affairs, *Mount Laurel II: Methods of Calculating Municipal Fair Share* (Trenton, NJ: Division of Housing and Development, undated); David Listokin, *Fair Share Housing Allocation* (New Brunswick, NJ: Center for Urban Policy Research, 1976); Mary Brooks, *Lower Income Housing: The Planner's Response* (Chicago: American Society of Planning Officials, 1972); and Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing*, Chapter 7.

²¹ State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *New Jersey Covered Employment Trends* (Series).

²² New Jersey Department of Community Affairs, *State Development Guide Plan* (Trenton, NJ: Division of State and Regional Planning,

1980).

²³ State of New Jersey, Department of Environmental Protection, Division of Coastal Resources, *Coastal Resource and Development Policies* (Trenton, NJ: Division of Coastal Resources, April 1982); State of New Jersey, Pinelands Commission, *Comprehensive Management Plan for the Pinelands National Reserve* (New Lisbon, NJ: Pinelands Commission, undated).

²⁴ Bureau of Government Research, *New Jersey Legislative District Data Book—1986* (New Brunswick, NJ: Bureau of Government Research, April 1986).

²⁵ State of New Jersey, Department of Community Affairs, *A Revised Statewide Housing Allocation Report for New Jersey*; see also, Carla L. Lerman et al., "Fair Share Report—Urban League of Greater New Brunswick v. Carteret et al."

²⁶ Lerman et al., "Fair Share Report—Urban League of Greater New Brunswick v. Carteret et al.," p. 14.

²⁷ State of New Jersey, Department of Community Affairs, Division of Local Government Services, *Forty-Seventh Annual Report of the Division of Local Government Services—1984—Statements of Financial Condition of Counties and Municipalities* (Trenton, NJ: Division of Local Government, 1985).

²⁸ See Robert W. Burchell and David Listokin, *The Adaptive Reuse Handbook* (New Brunswick, NJ: Center for Urban Policy Research, 1981), Chapter 1, "Property Abandonment in the United States."

²⁹ Center for Urban Policy Research, analysis, *American (Annual) Housing Survey 1974–1983—Metropolitan Areas of New Jersey* (see Note 33 for citation of *American (Annual) Housing Survey*).

³⁰ State of New Jersey, Department of Labor, Division of Planning and Research, *Residential Building Permits* (series—annual and monthly).

³¹ *Ibid.*

³² See, for example, J.B. Lansing et al., "New Homes and Poor People—Study of Chains of Moves." *Geographical Analysis*, Vol. 6, No. 1 (1974), pp. 95–99; F.S. Kristof, "Federal Housing Policies—Subsidized Production, Filtration, and Objectives," *Land Economics*, Vol. 49, No. 2 (1983), pp. 163–174.

³³ U.S. Department of Commerce, U.S. Bureau of the Census, *Current Housing Reports—Housing Characteristics for Selected Metropolitan Areas* (Washington, D.C.: U.S. Government Printing Office), series.

³⁴ Center for Urban Policy Research, analysis of *American (Annual) Housing Survey—1974–1983—Metropolitan Areas of New Jersey* (see Note 33).

³⁵ *Ibid.*

³⁶ U.S. Department of Housing and Urban Development, "Additions to the Housing Supply by Means Other Than New Construction" (December 1982). Paper prepared by the Division of Housing and Demographic Analysis, Office of Policy Development and Research.

³⁷ *Ibid.*

³⁸ See Note 29.

³⁹ U.S. Department of Housing and Urban Development, "Additions to the Housing Supply by Means Other Than New Construction."

⁴⁰ Burchell et al., *Mount Laurel II*, *op. cit.*, Chapter 5, Part IV.

⁴¹ J. Thomas Black, "Private-Market Housing Restoration in Central Cities: A ULI Survey." *Urban Land*, November 1975, p. 3; A. H. Schaaf, "Economic Feasibility Analysis for Urban Renewal Housing Rehabilitation," *Journal of the American Institute of Planners*, Vol. 35,

No. 6 (November 1969), p. 399.

APPENDIX B

EXHIBIT 1—BASE DATA, MUNICIPAL DETERMINATION OF PRE-CREDITED NEED
EXHIBIT 2—BASE DATA BY HOUSING REGION

EXHIBIT 1
NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME
HOUSING NEED CALCULATION
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNIC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
ATLANTIC	JOHNSONVILLE	323	144	984	8922	3.464	1.940	2.244	3.575	2.549	2.806	23.3
	ABSECON CITY	3428	54	4209	2392	1.413	.995	2.438	.636	1.615	1.370	43.2
	ATLANTIC CITY CITY	3428	1501	4209	17729	2.934	38.916	8.441	86.007	16.764	34.075	43.2
	BRIGANTINE CITY	3428	103	4209	4639	1.584	.517	3.114	-.254	1.738	1.240	43.2
	BUENA BORO	3428	56	4209	1275	.201	1.028	.940	.801	.723	.743	43.2
	BUENA VISTA TWP.	3428	188	4209	2050	.	.	.	.	.	.	43.2
	CORBIN CITY CITY	3428	8	4209	116	.	.	.	.	.	.	43.2
	EGG HARBOR TWP.	3428	344	4209	7686	7.577	4.864	5.886	6.893	6.109	6.305	43.2
	EGG HARBOR CITY CITY	3428	117	4209	1640	.790	.632	1.312	-.743	.911	.498	43.2
	ESTELL MANOR CITY	3428	39	4209	314	.	.	.	.	.	.	43.2
	FOLSOM BORO	3428	34	4209	563	.	.	.	.	.	.	43.2
	GALLOWAY TWP.	3428	237	4209	6604	2.699	1.568	4.380	.203	2.883	2.213	43.2
	HAMILTON TWP.	3428	243	4209	4367	3.528	1.368	3.209	.784	2.702	2.222	43.2
	HAMMONTON TOWN	3428	215	4209	4169	2.797	4.454	3.448	2.213	3.567	3.228	43.2
	LINWOOD CITY	3428	33	4209	2030	.942	1.424	2.421	.537	1.595	1.331	43.2
	LONGPORT BORO	3428	12	4209	593	.074	.118	.509	.077	.234	.194	43.2
	MARGATE CITY CITY	3428	98	4209	3839	.347	.836	4.419	.370	1.867	1.493	43.2
	MULLICA TWP.	3428	247	4209	1862	.	.	.	.	.	.	43.2
	NORTHFIELD CITY	3428	56	4209	2552	.867	1.860	2.616	2.503	1.781	1.962	43.2
	PLEASANTVILLE CITY	3428	288	4209	5429	1.437	3.631	3.183	1.749	2.750	2.500	43.2
	PORT REPUBLIC CITY	3428	25	4209	310	.	.	.	.	.	.	43.2
	SOMERS POINT CITY	3428	107	4209	4374	.792	2.312	3.155	1.565	2.086	1.956	43.2
	VENTNOR CITY CITY	3428	148	4209	5140	.520	1.107	4.403	.619	2.010	1.662	43.2
	WEYMOUTH TWP.	3428	56	4209	441	.	.	.	.	.	.	43.2
BERGEN	ALLENDALE BORO	345	11	701	1822	.994	.315	.796	1.328	.702	.858	17.1
	ALPINE BORO	511	15	1190	601	2.201	.047	.399	-.505	.882	.535	23.1

BERGENFIELD BORO	511	302	1190	9014	1.065	.944	1.994	.768	1.335	1.193	23.1
BOGOTA BORO	1246	97	1900	2880	.249	.233	.647	.465	.376	.398	37.2
CARLSTADT BORO	1374	115	1767	2421	1.264	3.445	.437	2.992	1.715	2.035	39.1
CLIFFSIDE PARK BORO	1543	440	2157	9221	.355	.404	1.915	.244	.891	.730	37.8
CLOSTER BORO	511	53	1190	2751	1.125	.420	.807	.148	.784	.625	23.1
CRESSKILL BORO	511	34	1190	2597	.710	.364	.758	.019	.611	.463	23.1
DENAREST BORO	511	8	1190	1577	.746	.056	.650	.048	.484	.375	23.1
DUMONT BORO	511	154	1190	6298	.639	.273	1.414	-.027	.775	.575	23.1
EAST RUTHERFORD BORO	1374	187	1767	3354	1.059	2.054	.527	.021	1.213	.915	39.1
EDGEWATER BORO	1543	125	2157	2244	.249	.571	.496	.432	.438	.437	37.8
ELMWOOD PARK BORO	821	241	2334	6984	.888	1.373	1.294	-.371	1.185	.796	35.6
EMERSON BORO	511	50	1190	2256	.781	.499	.667	1.421	.649	.842	23.1
ENGLEWOOD CITY	1246	514	1900	8824	1.740	2.587	2.188	1.518	2.171	2.008	37.2
ENGLEWOOD CLIFFS BORO	511	19	1190	1865	.639	2.050	.723	.209	1.137	.905	23.1
FAIR LAWN BORO	821	149	2334	11831	1.882	2.299	2.845	1.256	2.342	2.070	35.6
FAIRVIEW BORO	1543	304	2157	4355	.320	.631	.703	-.232	.551	.355	37.8
FORT LEE BORO	1543	611	2157	15462	.888	2.216	3.944	7.126	2.349	3.543	37.8
FRANKLIN LAKES BORO	345	22	701	3006	3.479	.801	1.506	1.564	1.929	1.838	17.1
GARFIELD CITY	821	876	2334	11060							35.6
GLEN ROCK BORO	345	22	701	3772	.994	.800	1.253	1.108	.949	.989	17.1
HACKENSACK CITY	1246	991	1900	16345	1.420	6.230	3.018	3.008	3.556	3.419	37.2
HARRINGTON PARK BORO	511	16	1190	1429	.724	.093	.500	.430	.439	.437	23.1
HASBROUCK HEIGHTS BORO	1374	97	1767	4501	.533	.667	1.023	1.746	.741	.992	39.1
HAWORTH BORO	511	2	1190	1127	.699	.082	.383	.258	.388	.355	23.1
HILLSDALE BORO	511	67	1190	3302	1.030	.376	1.005	.613	.804	.756	23.1
HO-HO-KUS BORO	345	7	701	1405	.639	.105	.579	.061	.441	.346	17.1
LEONIA BORO	1543	67	2157	3386	.533	.183	.844	-.315	.520	.311	37.8
LITTLE FERRY BORO	1374	180	1767	5098	.533	.550	.757	-.279	.613	.390	39.1
LODI BORO	821	515	2334	9500							35.6
LYNDHURST TWP.	1374	315	1767	7738	.846	1.637	1.471	2.259	1.318	1.553	39.1
MAHWAH TWP.	345	113	701	5221	2.975	1.177	1.352	-8.607	1.835	-.776	17.1
MAYWOOD BORO	821	81	2334	3842	.462	.693	.796	.755	.650	.676	35.6
MIDLAND PARK BORO	345	70	701	2612	.600	.588	.604	.880	.597	.668	17.1
MONTVALE BORO	511	33	1190	2515	1.420	1.441	.798	3.562	1.220	1.805	23.1
MOONACHIE BORO	1374	38	1767	1045	.568	1.529	.181	1.252	.759	.882	39.1
NEW MILFORD BORO	821	107	2334	6334	.781	.270	1.360	.225	.804	.659	35.6
NORTH ARLINGTON BORO	1374	184	1767	6551	.501	.458	1.267	-.295	.742	.483	39.1
NORTHVALE BORO	511	36	1190	1572	.462	.878	.382	2.725	.574	1.112	23.1
NORWOOD BORO	511	38	1190	1441	1.030	.377	.442	-.349	.616	.375	23.1
OAKLAND BORO	345	80	701	3987	2.127	.858	1.172	2.096	1.386	1.563	17.1
OLD TAPPAN BORO	511	13	1190	1366	1.101	.248	.438	1.244	.595	.758	23.1
ORADELL BORO	821	25	2334	2817	.905	.585	.980	.769	.823	.810	35.6

PALISADES PARK BORO	1543	294	2157	5799	.462	.717	1.077	.346	.752	.651	37.8
PARAMUS BORO	821	97	2334	7923	3.674	6.930	2.314	13.562	4.306	6.620	35.6
PARK RIDGE BORO	511	72	1190	2947	.916	.501	.798	.889	.738	.776	23.1
RAMSEY BORO	345	57	701	4501	2.095	1.089	1.320	2.932	1.501	1.859	17.1
RIDGEFIELD BORO	1543	131	2157	4015	.923	1.091	.811	-1.614	.942	.303	37.8
RIDGEFIELD PARK VILLAGE	1543	184	2157	5034	.710	.425	1.005	.618	.713	.690	37.8
RIDGEWOOD VILLAGE	345	150	701	8671	2.095	1.578	3.328	3.061	2.334	2.515	17.1
RIVER EDGE BORO	821	68	2334	4180	.675	.377	1.066	.621	.706	.685	35.6
RIVER VALE TWP.	511	39	1190	3070	1.491	.155	1.057	.448	.901	.787	23.1
ROCHELLE PARK TWP.	821	38	2334	2065	.391	.719	.431	1.521	.514	.765	35.6
ROCKLEIGH BORO	511	1	1190	59	.355	.562	.018	.353	.312	.322	23.1
RUTHERFORD BORO	1374	257	1767	7060	.843	1.618	1.602	4.889	1.354	2.238	39.1
SADDLE BROOK TWP.	821	137	2334	4961	.959	2.318	1.083	.084	1.453	1.111	35.6
SADDLE RIVER BORO	345	12	701	1032	1.811	.062	.576	-.111	.816	.584	17.1
SOUTH HACKENSACK TWP.	1374	46	1767	784	.178	.998	.151	-.026	.442	.325	39.1
TEANECK TWP.	1246	298	1900	13256	2.095	1.802	3.595	-.244	2.497	1.812	37.2
TENAFLY BORO	511	89	1190	4917	1.562	.554	1.807	1.176	1.308	1.275	23.1
TETERBORO BORO	1374	0	1767	10	.426	1.996	.002	6.359	.808	2.196	39.1
UPPER SADDLE RIVER BORO	345	36	701	2401	1.811	.609	1.155	1.733	1.192	1.327	17.1
WALDWICK BORO	345	70	701	3396	.852	.378	.923	.474	.718	.657	17.1
WALLINGTON BORO	1374	300	1767	4667	.355	.545	.734	.267	.545	.475	39.1
WASHINGTON TWP.	511	26	1190	3266	1.019	.086	.932	-.002	.679	.509	23.1
WESTWOOD BORO	511	114	1190	4070	.852	1.013	.939	1.104	.935	.977	23.1
WOODCLIFF LAKE BORO	511	9	1190	1708	1.331	.379	.724	1.508	.811	.986	23.1
WOOD-RIDGE BORO	1374	48	1767	2877	.391	.437	.668	-.728	.498	.192	39.1
WYCKOFF TWP.	345	49	701	5040	2.379	.677	1.834	1.323	1.630	1.553	17.1
BURLINGTON											
BASS RIVER TWP.	832	45	1975	543	.	.	.196	.587	.181	.282	46.2
BEVERLY CITY	716	60	1327	1055	.084	.262	.196	.587	.181	.282	36.4
BORDENTOWN CITY	716	102	1327	1839	.147	.296	.387	-.089	.277	.185	36.4
BORDENTOWN TWP.	716	55	1327	2689	.985	.821	.630	1.369	.812	.951	36.4
BURLINGTON CITY	716	197	1327	4019	.538	1.028	.761	-.501	.776	.457	36.4
BURLINGTON TWP.	716	179	1327	4112	2.221	2.095	.902	4.714	1.739	2.483	36.4
CHESTERFIELD TWP.	832	29	1975	832	.281	.088	.307	.406	.226	.271	46.2
CINNAMINSON TWP.	716	85	1327	4889	1.184	1.541	1.634	2.082	1.453	1.610	36.4
DELANCO TWP.	716	25	1327	1361	.338	.292	.270	.071	.300	.243	36.4
DELTRAN TWP.	716	128	1327	5050	1.081	.885	1.263	2.006	1.076	1.309	36.4
EASTAMPTON TWP.	832	40	1975	1578	.594	.033	.361	.060	.329	.262	46.2
EDGEWATER PARK TWP.	716	88	1327	3578	.447	.257	.829	-.474	.511	.265	36.4
EVESSHAM TWP.	323	82	984	11379	2.125	1.934	2.448	4.882	2.169	2.847	23.3
FIELDSBORO BORO	716	8	1327	194	.047	.025	.041	-.195	.038	-.020	36.4

FLORENCE TWP.	716	127	1327	3723	1.509	.501	.731	1.454	.914	1.049	36.4
HAINESPORT TWP.	832	57	1975	1246	1.029	.294	.243	-.077	.522	.372	46.2
LUMBERTON TWP.	832	67	1975	2139	.739	.199	.442	-.051	.460	.332	46.2
MANSFIELD TWP.	832	52	1975	1130	1.134	.193	.234	.367	.520	.482	46.2
MAPLE SHADE TWP.	323	199	984	9024	.582	1.268	1.727	2.018	1.192	1.398	23.3
MEDFORD TWP.	323	125	984	7084	2.022	1.228	2.053	2.906	1.768	2.052	23.3
MEDFORD LAKES BORO	323	48	984	1578	.176	.028	.526	.005	.243	.184	23.3
MOORESTOWN TWP.	323	63	984	5998	2.374	4.685	2.039	5.320	3.033	3.604	23.3
MOUNT HOLLY TWP.	832	212	1975	3910	.455	1.867	.847	1.004	1.057	1.044	46.2
MOUNT LAUREL TWP.	323	144	984	8922	3.464	1.940	2.244	3.575	2.549	2.806	23.3
NEW HANOVER TWP.	832	73	1975	1183	.	.	.	.	.	.	46.2
NORTH HANOVER TWP.	832	138	1975	3205	.	.	.	.	.	.	46.2
PALMYRA BORO	716	80	1327	3255	.300	.374	.632	.384	.435	.422	36.4
PEMBERTON BORO	832	23	1975	468	.	.	.	.	.	.	46.2
PEMBERTON TWP.	832	708	1975	10363	.	.	.	.	.	.	46.2
RIVERSIDE TWP.	716	142	1327	3060	.241	.651	.579	-.909	.490	.140	36.4
RIVERTON BORO	716	49	1327	1147	.109	.262	.312	-.312	.228	.093	36.4
SHANONG TWP.	832	67	1975	1584	.298	.064	.394	.016	.252	.193	46.2
SOUTHAMPTON TWP.	832	84	1975	3942	.219	.381	.786	.291	.462	.419	46.2
SPRINGFIELD TWP.	832	61	1975	1001	.530	.070	.221	.138	.274	.240	46.2
TABERNACLE TWP.	832	99	1975	2132	.613	.079	.517	.262	.403	.368	46.2
WASHINGTON TWP.	832	45	1975	300	.	.	.	.	.	.	46.2
WESTAMPTON TWP.	832	35	1975	2911	1.726	.204	.377	-.213	.769	.523	46.2
WILLINGBORO TWP.	323	322	984	11538	1.188	1.150	3.193	-.415	1.844	1.279	23.3
WOODLAND TWP.	832	60	1975	408	.	.	.	.	.	.	46.2
WRIGHTSTOWN BORO	832	78	1975	1032	.	.	.	.	.	.	46.2
AUDUBON BORO	506	46	1072	3724	.231	.495	.761	-.237	.496	.313	42.3
AUDUBON PARK BORO	506	18	1072	509	.023	.003	.087	-.025	.038	.022	42.3
BARRINGTON BORO	506	131	1072	2826	.249	.466	.603	-1.279	.439	.010	42.3
BELLMAR BORO	506	174	1072	4626	.468	.918	.975	.763	.787	.781	42.3
BERLIN BORO	718	55	1553	1930	.557	.921	.507	2.331	.662	1.079	38.5
BERLIN TWP.	718	57	1553	1765	.511	.336	.391	-.233	.413	.251	38.5
BROOKLAWN BORO	506	15	1072	800	.077	.178	.149	.232	.134	.159	42.3
CAMDEN CITY	3730	3288	3594	27693	.	.	.	.	.	.	63.2
CHERRY HILL TWP.	445	345	671	25222	3.781	12.596	8.014	21.297	8.130	11.422	30.1
CHESILHURST BORO	718	26	1553	485	.269	.009	.096	.001	.125	.094	38.5
CLEMENTON BORO	718	81	1553	2282	.299	.473	.420	.465	.397	.414	38.5
COLLINGSWOOD BORO	445	205	671	6665	.291	.691	1.328	.619	.770	.732	30.1
GIBBSBORO BORO	718	22	1553	785	.338	.431	.187	1.058	.318	.503	38.5

GLOUCESTER TWP.	718	325	1553	17476	3.619	1.427	3.894	1.032	2.980	2.493	38.5
GLOUCESTER CITY CITY	506	209	1072	4831	.363	.444	.821	-.796	.542	.208	42.3
HADDON TWP.	445	96	671	6455	.421	.825	1.514	.068	.920	.707	30.1
HADDONFIELD BORO	506	44	1072	4634	.435	1.548	1.638	2.781	1.207	1.600	42.3
HADDON HEIGHTS BORO	506	79	1072	3184	.247	.357	.776	.069	.460	.362	42.3
HI-NELLA BORO	718	20	1553	501	.036	.018	.089	-.059	.048	.021	38.5
LAUREL SPRINGS BORO	718	31	1553	801	.070	.162	.186	.103	.140	.130	38.5
LAWNSIDE BORO	506	76	1072	1070	.224	.313	.219	-.156	.252	.150	42.3
LINDENWOLD BORO	718	235	1553	8107	.597	.550	1.472	.778	.873	.849	38.5
MAGNOLIA BORO	506	39	1072	1705	.153	.216	.353	.214	.241	.234	42.3
MERCHANTVILLE BORO	3730	40	3594	1623	.095	.232	.370	-.187	.232	.128	63.2
MOUNT EPHRAIM BORO	506	41	1072	1931	.141	.271	.363	.537	.258	.328	42.3
OAKLYN BORO	506	38	1072	1841	.099	.206	.359	.083	.221	.187	42.3
PENNSAUKEN TWP.	3730	265	3594	12207	1.851	6.437	2.732	2.603	3.607	3.356	63.2
PINE HILL BORO	718	134	1553	3634	.621	.082	.651	.040	.451	.349	38.5
PINE VALLEY BORO	718	0	1553	11	.147	.020	.008	.023	.058	.050	38.5
RUNNEMEDE BORO	506	93	1072	3409	.313	.449	.661	.234	.474	.414	42.3
SOMERDALE BORO	506	68	1072	2093	.213	.580	.440	2.113	.411	.836	42.3
STRATFORD BORO	718	63	1553	2680	.249	.694	.621	.856	.521	.605	38.5
TAVISTOCK BORO	506	0	1072	4	.042	.043	.001	.100	.029	.047	42.3
VOORHEES TWP.	718	80	1553	9201	1.816	2.119	2.011	2.819	1.982	2.191	38.5
WATERFORD TWP.	718	75	1553	3114	.744	.402	.626	.118	.591	.473	38.5
WINSLOW TWP.	718	348	1553	8232	3.395	.768	1.584	-.582	1.916	1.291	38.5
WOODLYNNE BORO	445	25	671	970	.034	.020	.163	-.014	.072	.051	30.1

CAPE MAY.

AVALON BORO	2377	36	3357	1287	1.244	.785	.868	.520	.966	.854	41.8
CAPE MAY CITY	2377	72	3357	2072	.629	1.734	1.393	1.533	1.252	1.322	41.8
CAPE MAY POINT BORO	2377	10	3357	172	.074	.007	.082	.020	.054	.046	41.8
DENNIS TWP.	2377	161	3357	1349	10.047	.372	1.063	.482	3.827	2.991	41.8
LOWER TWP.	2377	429	3357	6913	7.387	1.108	4.405	-.483	4.300	3.104	41.8
MIDDLE TWP.	2377	312	3357	4220	18.344	2.870	2.997	1.760	8.070	6.493	41.8
NORTH WILDWOOD CITY	2377	125	3357	2685	.421	1.507	1.227	1.662	1.052	1.204	41.8
OCEAN CITY CITY	2377	224	3357	7346	1.445	2.993	5.346	2.375	3.261	3.040	41.8
SEA ISLE CITY CITY	2377	37	3357	1873	.592	.526	.976	.447	.698	.635	41.8
STONE HARBOR BORO	2377	29	3357	925	.307	.537	.454	.208	.433	.377	41.8
UPPER TWP.	2377	159	3357	2739	7.254	1.039	2.173	.705	3.488	2.793	41.8
WEST CAPE MAY BORO	2377	40	3357	498	.322	.035	.303	-.125	.220	.134	41.8
WEST WILDWOOD BORO	2377	13	3357	145	.099	.030	.089	.068	.073	.072	41.8
WILDWOOD CITY	2377	214	3357	2272	.278	3.585	.966	-.206	1.609	1.156	41.8
WILDWOOD CREST BORO	2377	75	3357	1827	.255	1.355	1.198	.704	.936	.878	41.8

WOODBINE BORO	2377	54	3357	562	1.579	.208	.387	.483	.725	.684	41.8
CUMBERLAND											
BRIDGETON CITY	2287	512	3442	7014	.	.	.	.	.	.	45.2
COMMERCIAL TWP.	2287	288	3442	1890	.	.	.	.	.	.	45.2
DEERFIELD TWP.	2287	68	3442	914	.091	.494	.583	1.020	.389	.547	45.2
DOWNE TWP.	2287	116	3442	745	.	.	.	.	.	.	45.2
FAIRFIELD TWP.	2287	193	3442	1889	.561	.125	1.060	-.767	.582	.245	45.2
GREENWICH TWP.	2287	41	3442	347	.	.	.	.	.	.	45.2
HOPEWELL TWP.	2287	54	3442	1455	.772	.049	1.129	-.005	.650	.486	45.2
LAWRENCE TWP.	2287	102	3442	808	.	.	.	.	.	.	45.2
MAURICE RIVER TWP.	2287	182	3442	1286	.	.	.	.	.	.	45.2
MILLVILLE CITY	2287	483	3442	9658	10.656	6.425	6.203	-3.228	7.761	5.014	45.2
SHILOH BORO	2287	11	3442	220	.	.	.	.	.	.	45.2
STOW CREEK TWP.	2287	44	3442	492	.	.	.	.	.	.	45.2
UPPER DEERFIELD TWP.	2287	106	3442	2499	1.212	.555	1.752	.204	1.173	.931	45.2
VINELAND CITY	2287	1244	3442	18275	.	.	.	.	.	.	45.2
ESSEX											
BELLEVILLE TWP.	2045	614	2169	13798	.	.	.	.	.	.	38.5
BLOOMFIELD TWP.	2045	616	2169	18852	.	.	.	.	.	.	38.5
CALDWELL TWP.	208	84	469	3085	.337	.529	.753	.717	.540	.584	20.7
CEDAR GROVE TWP.	208	39	469	4179	1.264	.850	1.126	.251	1.080	.873	20.7
EAST ORANGE CITY	3016	2983	4656	28957	.	.	.	.	.	.	54.0
ESSEX FIELDS TWP.	208	10	469	733	.385	.051	.388	.041	.268	.211	20.7
FAIRFIELD TWP.	208	50	469	2421	1.450	4.274	.730	5.801	2.151	3.064	20.7
GLEN RIDGE TWP.	2045	30	2169	2564	.365	.156	.908	.007	.476	.359	38.5
IRVINGTON TOWN	2317	2006	2300	24881	.	.	.	.	.	.	47.9
LIVINGSTON TWP.	208	71	469	8916	3.932	3.846	3.593	4.418	3.790	3.947	20.7
MAPLEWOOD TWP.	2317	172	2300	8188	1.123	1.364	2.390	-.370	1.626	1.127	47.9
MILLBURN TWP.	208	62	469	7115	2.809	2.320	3.752	2.795	2.960	2.919	20.7
MONTCLAIR TWP.	2045	610	2169	14680	.	.	.	.	.	.	38.5
NEWARK CITY	15735	18505	18505	107584	.	.	.	.	.	.	63.3
NORTH CALDWELL TWP.	208	9	469	1895	.815	.141	.762	.030	.573	.437	20.7
NUTLEY TWP.	2045	300	2169	10866	.955	2.585	2.528	-.051	2.022	1.504	38.5
CITY OF ORANGE - TWP.	3016	1292	4656	12457	.	.	.	.	.	.	54.0
ROSELAND BORO	208	17	469	1927	.883	1.438	.651	4.399	.991	1.843	20.7
SOUTH ORANGE VILLAGE TWP.	2317	122	2300	5245	.758	1.301	2.086	.874	1.385	1.287	47.9
VERONA TWP.	208	94	469	5484	.786	.640	1.621	.663	1.016	.928	20.7
WEST CALDWELL TWP.	208	33	469	3720	1.208	1.523	1.211	1.816	1.314	1.439	20.7

WEST ORANGE TWP.	3016	381	4656	14670	3.398	3.260	4.185	4.677	3.615	3.880	54.0
GLOUCESTER											
CLAYTON BORO	2107	107	2622	2051	.623	.216	.387	.212	.409	.360	41.7
DEPTFORD TWP.	2107	378	2622	8226	2.749	1.700	1.785	2.599	2.078	2.208	41.7
EAST GREENWICH TWP.	2107	48	2622	1545	1.872	.152	.351	.070	.792	.611	41.7
ELK TWP.	2107	79	2622	1172	.906	.096	.231	.419	.411	.413	41.7
FRANKLIN TWP.	2107	267	2622	4681							41.7
GLASSBORO BORO	2107	250	2622	4950	1.092	1.132	.902	2.142	1.042	1.317	41.7
GREENWICH TWP.	2107	43	2622	1865	1.476	.526	.448	.957	.817	.852	41.7
HARRISON TWP.	2107	60	2622	1382	.261	.203	.306	.557	.257	.332	41.7
LOGAN TWP.	2107	52	2622	1327	3.662	.436	.275	.912	1.458	1.321	41.7
MANTUA TWP.	2107	113	2622	3018	1.855	.661	.739	.682	1.085	.984	41.7
MONROE TWP.	2107	296	2622	7830	2.583	.815	1.557	1.136	1.652	1.523	41.7
NATIONAL PARK BORO	2107	53	2622	1134	.156	.033	.207	.063	.132	.115	41.7
NEWFIELD BORO	2107	19	2622	539							41.7
PAULSBORO BORO	2107	143	2622	2415	.327	.739	.445	-1.545	.503	-.009	41.7
PITMAN BORO	2107	71	2622	3566	.353	.919	.770	-.600	.681	.360	41.7
SOUTH HARRISON TWP.	2107	30	2622	583							41.7
SWEDSBORO BORO	2107	69	2622	772	.120	.370	.146	.383	.212	.255	41.7
WASHINGTON TWP.	2107	142	2622	11117	3.046	1.076	2.536	1.481	2.219	2.035	41.7
WENONAH BORO	2107	14	2622	825	.155	.083	.241	-.153	.160	.082	41.7
WEST DEPTFORD TWP.	2107	137	2622	7190	2.530	1.090	1.577	.659	1.732	1.464	41.7
WESTVILLE BORO	2107	40	2622	1907	.189	.685	.345	.618	.406	.459	41.7
WOODBURY CITY	2107	152	2622	3949	.333	1.956	.851	1.744	1.047	1.221	41.7
WOODBURY HEIGHTS BORO	2107	20	2622	1092	.192	.301	.271	.203	.255	.242	41.7
WODLWICH TWP.	2107	39	2622	445	1.740	.091	.096	.110	.642	.509	41.7
HUDSON											
BAYONNE CITY	3970	1978	3450	25759							50.4
EAST NEWARK BORO	3970	74	3450	675	.036	.278	.103	-.114	.139	.076	50.4
GUTTENBERG TOWN	15084	277	10252	3281	.071	.344	.775	.771	.397	.490	63.3
HARRISON TOWN	3970	489	3450	4753	.426	1.089	.742	-1.433	.752	.206	50.4
HOBOKEN CITY	15084	3127	10252	16036							63.3
JERSEY CITY CITY	14356	10765	10765	80987							63.3
KEARNY TOWN	3970	725	3450	13212	2.817	3.110	2.296	-10.66	2.741	-.609	50.4
NORTH BERGEN TWP.	15084	1373	10252	19851							63.3
SECAUCUS TOWN	3970	184	3450	5298	1.331	5.445	1.349	15.808	2.709	5.983	50.4
UNION CITY CITY	15084	3061	10252	20755							63.3
WEEHAWKEN TWP.	15084	470	10252	5357							63.3

	15084	1944	10252	15469							63.3
WEST NEW YORK TOWN											
HUNTERDON											
ALEXANDRIA TWP.	2548	69	3279	1042	.	.	.	.	.	.	43.8
BETHLEHEM TWP.	2548	64	3279	969	.021	.054	.362	.181	.146	.154	43.8
BLOOMSBURY BORO	2548	16	3279	294	.101	.175	.100	.038	.125	.104	43.8
CALIFON BORO	2548	27	3279	338	.	.	.	.	.	.	43.8
CLINTON TOWN	2548	21	3279	701	.180	.380	.247	.703	.269	.377	43.8
CLINTON TWP.	2548	79	3279	2797	2.972	.440	1.030	.456	1.480	1.224	43.8
DELAWARE TWP.	2548	78	3279	1324	.	.	.	.	.	.	43.8
EAST AMWELL TWP.	2548	84	3279	1293	.	.	.	.	.	.	43.8
FLEMINGTON BORO	2548	84	3279	1839	.242	1.433	.510	1.701	.728	.972	43.8
FRANKLIN TWP.	2548	39	3279	831	.046	.094	.297	.098	.146	.134	43.8
FRENCHTOWN BORO	2548	25	3279	551	.	.	.	.	.	.	43.8
GLEN GARDNER BORO	2548	19	3279	409	.	.	.	.	.	.	43.8
HAMPTON BORO	2548	28	3279	565	.	.	.	.	.	.	43.8
HIGH BRIDGE BORO	2548	69	3279	1442	.435	.125	.381	.109	.314	.263	43.8
HOLLAND TWP.	2548	88	3279	1528	.	.	.	.	.	.	43.8
KINGWOOD TWP.	2548	95	3279	1008	.	.	.	.	.	.	43.8
LAMBERTVILLE CITY	2548	105	3279	1592	.	.	.	.	.	.	43.8
LEBANON BORO	2548	9	3279	365	.270	.106	.092	.036	.156	.126	43.8
LEBANON TWP.	2548	168	3279	1752	.	.	.	.	.	.	43.8
MILFORD BORO	2548	25	3279	475	.	.	.	.	.	.	43.8
RARITAN TWP.	2548	92	3279	3812	2.550	1.679	1.246	2.632	1.825	2.027	43.8
READINGTON TWP.	2548	111	3279	3602	2.300	.662	1.436	.863	1.466	1.315	43.8
STOCKTON BORO	2548	14	3279	247	.	.	.	.	.	.	43.8
TEWKSBURY TWP.	2548	71	3279	1456	.075	.129	1.012	.451	.405	.417	43.8
UNION TWP.	2548	68	3279	1148	.	.	.	.	.	.	43.8
WEST AMWELL TWP.	2548	40	3279	745	.	.	.	.	.	.	43.8
MERCER											
EAST WINDSOR TWP.	481	212	1109	7923	2.090	2.223	2.227	3.701	2.180	2.560	30.3
EWING TWP.	481	291	1109	11666	2.366	3.888	3.351	-.531	3.201	2.268	30.3
HAMILTON TWP.	3411	749	3479	30368	5.269	5.051	7.361	-2.672	5.894	3.752	49.0
HIGHTSTOWN BORO	481	97	1109	1629	.192	.909	.443	-.251	.515	.323	30.3
HOPEWELL BORO	481	26	1109	767	.	.	.	.	.	.	30.3
HOPEWELL TWP.	481	117	1109	3590	1.324	.781	1.395	.401	1.167	.975	30.3
LAWRENCE TWP.	3411	141	3479	7944	3.061	5.180	2.328	6.075	3.523	4.161	49.0
PENNINGTON BORO	481	15	1109	866	.	.	.	.	.	.	30.3
PRINCETON BORO	481	86	1109	3068	.275	4.521	1.332	6.121	2.043	3.062	30.3

PRINCETON TWP.	481	161	1109	4932	1.891	.923	2.380	.346	1.732	1.385	30.3
TRENTON CITY	3411	2588	3479	30626							49.0
WASHINGTON TWP.	481	42	1109	1428	2.455	.350	.351	.870	1.052	1.007	30.3
WEST WINDSOR TWP.	481	62	1109	3306	3.255	2.203	1.167	4.841	2.208	2.866	30.3

MIDDLESEX

CARTERET BORO	2372	343	3200	6537							45.5
CRANBURY TWP.	491	23	1010	766	2.042	1.173	.296	1.337	1.170	1.212	37.0
DUNELLEN BORO	652	148	1557	2293	.228	.272	.669	.590	.390	.145	34.0
EAST BRUNSWICK TWP.	2177	176	2407	13448	3.910	5.466	5.071	9.324	4.816	5.943	42.9
EDISON TWP.	652	590	1557	30286	6.734	14.022	9.358	8.705	10.038	9.705	34.0
HELMETTA BORO	491	17	1010	305	.176	.058	.088	.315	.107	.159	37.0
HIGHLAND PARK BORO	2177	152	2407	5543	.395	.792	1.664	.193	.951	.665	42.9
JAMESBURG BORO	491	71	1010	1481	.162	.292	.418	.148	.290	.181	37.0
METUCHEN BORO	652	101	1557	4655	.604	1.660	1.862	.042	1.375	1.042	34.0
MIDDLESEX BORO	652	104	1557	4398	.758	1.773	1.422	1.410	1.318	1.341	34.0
MILLTOWN BORO	2177	40	2407	2453	.352	.778	.823	.338	.651	.573	42.9
MONROE TWP.	491	133	1010	8553	1.876	.382	2.390	.882	1.549	1.382	37.0
NEW BRUNSWICK CITY	2177	1549	2407	14164							42.9
NORTH BRUNSWICK TWP.	2177	182	2407	8826	2.637	3.970	3.139	7.312	3.248	4.264	42.9
OLD BRIDGE TWP.	491	476	1010	18462	8.417	1.460	5.934	.732	5.270	4.136	37.0
PERTH AMBOY CITY	2372	1633	3200	12784							45.5
PISCATAWAY TWP.	652	463	1557	12507	4.152	8.015	4.571	11.391	5.579	7.032	34.0
PLAINSBORO TWP.	491	50	1010	8404	1.377	1.042	1.523	3.680	1.314	1.906	37.0
SAYREVILLE BORO	2372	258	3200	11608	3.647	2.144	3.319	.584	3.037	2.131	45.5
SOUTH AMBOY CITY	2372	168	3200	2718	.319	.736	.741	-.012	.598	.446	45.5
SOUTH BRUNSWICK TWP.	491	150	1010	8088	5.307	3.175	2.113	7.022	3.532	4.405	37.0
SOUTH PLAINFIELD BORO	652	150	1557	6180	1.802	4.796	2.175	1.131	2.924	2.476	34.0
SOUTH RIVER BORO	2177	308	2407	4770	.615	.532	1.410	-.634	.853	.481	42.9
SPOTSWOOD BORO	491	91	1010	2507	.472	.436	.888	.060	.599	.464	37.0
WOODBRIIDGE TWP.	2372	798	3200	30420	5.075	11.807	10.457	12.775	9.113	10.028	45.5

MONMOUTH

ABERDEEN TWP.	1254	216	1516	6219	1.157	1.985	2.473	.181	1.872	1.449	31.5
ALLENHURST BORO	1498	4	2315	337	.064	.288	.160	-.042	.171	.117	42.3
ALLENTOWN BORO	230	23	1079	690							27.1
ASSBURY PARK CITY	1498	765	2315	7262							42.3
ATLANTIC HIGHLANDS BORO	1254	45	1516	1867	.255	.903	.681	.816	.613	.664	31.5
AVON-BY-THE-SEA BORO	1498	26	2315	1024	.085	.394	.334	.097	.271	.228	42.3
BELMAR BORO	1498	181	2315	3132	.212	1.165	.809	1.340	.729	.882	42.3

BRADLEY BEACH BORO	1498	149	2315	2206	.149	.284	.527	-.123	.320	.209	42.3
BRIELLE BORO	1498	28	2315	1753	.350	.669	.787	1.054	.602	.715	42.3
COLTS NECK TWP.	230	20	1079	2545	.135	.634	1.592	.991	.787	.838	27.1
DEAL BORO	1498	6	2315	683	.255	.231	.508	-.058	.331	.234	42.3
EATONTOWN BORO	871	105	1448	5332	1.232	4.683	1.659	5.127	2.525	3.175	40.0
ENGLISHTOWN BORO	230	19	1079	470	.121	.769	.092	.346	.328	.332	27.1
FAIR HAVEN BORO	871	30	1448	1971	.329	.242	1.000	.650	.524	.555	40.0
FARMINGDALE BORO	230	16	1079	531	.	.	.	.	.	.	27.1
FREEHOLD BORO	230	185	1079	3715	.403	3.014	1.145	1.301	1.521	1.466	27.1
FREEHOLD TWP.	230	94	1079	7030	4.441	4.336	2.858	4.896	3.878	4.133	27.1
HAZLET TWP.	1254	136	1516	7175	1.189	1.842	2.855	2.471	1.962	2.090	31.5
HIGHLANDS BORO	1254	94	1516	2378	.136	.468	.752	.434	.452	.448	31.5
HOLMDEL TWP.	1254	25	1516	3211	1.787	5.535	2.074	3.019	3.132	3.104	31.5
HOWELL TWP.	230	335	1079	11205	5.802	2.016	3.345	2.738	3.721	3.475	27.1
INTERLAKEN BORO	1498	5	2315	396	.081	.010	.199	.003	.096	.073	42.3
KEANSBURG BORO	1254	274	1516	3516	.	.	.	.	.	.	31.5
KEYPORT BORO	1254	151	1516	3122	.297	.991	.776	-1.381	.688	.171	31.5
LITTLE SILVER BORO	871	23	1448	1948	.595	.654	1.106	1.011	.785	.841	40.0
LOCH ARBOUR VILLAGE	1498	3	2315	127	.021	.030	.068	-.047	.040	.018	42.3
LONG BRANCH CITY	871	816	1448	12506	.	.	.	.	.	.	40.0
MANALAPAN TWP.	230	155	1079	7636	3.079	1.257	3.273	1.193	2.536	2.201	27.1
MANASQUAN BORO	1498	97	2315	2256	.297	1.282	.717	1.514	.766	.953	42.3
MARLBORO TWP.	230	78	1079	8377	4.769	1.906	3.431	4.475	3.369	3.645	27.1
MATAWAN BORO	1254	85	1516	3183	.480	1.415	1.235	1.122	1.043	1.063	31.5
MIDDLETOWN TWP.	1254	373	1516	23133	8.462	4.586	10.375	4.819	7.808	7.060	31.5
MILLSTONE TWP.	230	93	1079	1410	.	.	.	.	.	.	27.1
MONMOUTH BEACH BORO	871	19	1448	1511	.234	.225	.834	.436	.431	.432	40.0
NEPTUNE TWP.	1498	559	2315	10704	.	.	.	.	.	.	42.3
NEPTUNE CITY BORO	1498	66	2315	2267	.191	1.027	.681	-.694	.633	.301	42.3
OCEAN TWP.	1498	125	2315	9213	2.378	6.367	3.607	12.697	4.117	6.262	42.3
OCEANPORT BORO	871	23	1448	2113	.658	1.137	.843	-.204	.879	.608	40.0
RED BANK BORO	871	225	1448	5004	.372	5.604	1.609	5.283	2.528	3.217	40.0
ROOSEVELT BORO	230	13	1079	325	.	.	.	.	.	.	27.1
RUMSON BORO	871	44	1448	2626	1.104	.488	1.949	.392	1.180	.983	40.0
SEA BRIGHT BORO	871	31	1448	1116	.127	.352	.366	.249	.282	.274	40.0
SEA GIRT BORO	1498	5	2315	1056	.223	.372	.554	.197	.383	.336	42.3
SHREWSBURY BORO	871	14	1448	1097	.488	1.450	.492	1.343	.810	.943	40.0
SHREWSBURY TWP.	871	27	1448	556	.019	.189	.102	.266	.103	.144	40.0
SOUTH BELMAR BORO	1498	34	2315	683	.042	.105	.171	.204	.106	.130	42.3
SPRING LAKE BORO	1498	37	2315	1575	.276	.549	.752	.719	.526	.574	42.3
SPRING LAKE HEIGHTS BORO	1498	34	2315	2782	.276	.569	.845	.765	.563	.614	42.3
TINTON FALLS BORO	871	70	1448	3296	1.255	2.279	1.159	4.999	1.564	2.423	40.0

UNION BEACH BORO	1254	118	1516	2126	.382	.430	.598	-.044	.470	.341	31.5
UPPER FREEHOLD TWP.	230	47	1079	1051							27.1
WALL TWP.	1498	191	2315	7350	3.688	2.898	2.598	4.309	3.061	3.373	42.3
WEST LONG BRANCH BORO	871	23	1448	2538	.601	1.793	1.058	1.477	1.150	1.232	40.0

MORRIS

BOONTON TOWN	280	177	798	3255	.680	.622	.705	-.246	.669	.440	23.6
BOONTON TWP.	280	63	798	1242	1.049	.253	.406	-1.144	.569	.141	23.6
BUTLER BORO	418	84	1148	2672	.553	.323	.600	-.595	.492	.220	29.4
CHATHAM BORO	537	36	741	3315	.660	.610	1.081	.463	.784	.704	24.1
CHATHAM TWP.	537	20	741	3556	1.244	.247	1.394	.353	.962	.809	24.1
CHESTER BORO	769	13	1211	497							28.2
CHESTER TWP.	769	50	1211	1819							28.2
DENVILLE TWP.	418	112	1148	4917	3.533	1.245	1.369	2.768	2.049	2.229	29.4
DOVER TOWN	769	350	1211	5322	.705	1.434	1.101	-1.106	1.080	.534	28.2
EAST HANDVER TWP.	280	50	798	2958	1.835	2.289	.849	3.478	1.658	2.113	23.6
FLORHAM PARK BORO	537	7	741	3039	2.106	2.584	1.081	5.429	1.924	2.800	24.1
HANDVER TWP.	280	40	798	3931	3.033	3.047	1.186	3.062	2.422	2.582	23.6
HARDING TWP.	537	7	741	1315	1.353	.238	.911	1.014	.834	.879	24.1
JEFFERSON TWP.	418	391	1148	5905	.056	.213	1.305	.096	.525	.418	29.4
KINNELON BORO	418	56	1148	2672	.493	.162	.985	.142	.547	.446	29.4
LINCOLN PARK BORO	418	60	1148	3893	1.138	.387	.684	-.183	.736	.507	29.4
MADISON BORO	537	108	741	5384	1.180	1.088	1.750	1.269	1.339	1.322	24.1
MENDHAM BORO	537	23	741	1766							24.1
MENDHAM TWP.	537	33	741	1624	.048	.055	.703	.034	.269	.210	24.1
MINE HILL TWP.	769	30	1211	1211	.829	.032	.277	.087	.379	.306	28.2
MONTVILLE TWP.	280	98	798	4835	2.751	1.322	1.562	2.772	1.878	2.102	23.6
MORRIS TWP.	537	99	741	7245	3.039	1.471	2.584	.587	2.365	1.920	24.1
MORRIS PLAINS BORO	537	24	741	1831	.730	1.959	.626	3.963	1.105	1.820	24.1
MORRISTOWN TOWN	537	349	741	7155	.803	6.305	1.587	11.712	2.898	5.102	24.1
MOUNTAIN LAKES BORO	280	9	798	1239	.815	.205	.611	.183	.544	.453	23.6
MOUNT ARLINGTON BORO	769	37	1211	1452	.190	.031	.352	.009	.191	.145	28.2
MOUNT OLIVE TWP.	769	165	1211	6847	1.629	.552	1.648	1.279	1.277	1.277	28.2
NETCONG BORO	769	35	1211	1380	.253	.179	.264	-.327	.232	.092	28.2
PARSIPPANY-TROY HILLS TWP.	280	360	798	18470	6.030	5.581	4.689	13.996	5.434	7.574	23.6
PASSAIC TWP.	537	35	741	2717	2.340	.331	.813	.191	1.161	.919	24.1
PEQUANNOCK TWP.	418	65	1148	4394	1.678	.880	1.269	1.079	1.276	1.226	29.4
RANDOLPH TWP.	769	180	1211	6708	4.000	.942	1.986	2.083	2.309	2.253	28.2
RIVERDALE BORO	418	34	1148	877	.525	.285	.207	.128	.339	.286	29.4
ROCKAWAY BORO	418	77	1148	2448	.562	.562	.616	.371	.580	.528	29.4
ROCKAWAY TWP.	418	191	1148	6775	2.896	1.714	1.835	4.413	2.148	2.714	29.4

ROXBURY TWP.	769	194	1211	6460	4.473	1.162	1.709	1.171	2.448	2.129	28.2
VICTORY GARDENS BORO	769	32	1211	407	.056	.005	.079	.008	.047	.037	28.2
WASHINGTON TWP.	769	124	1211	4789	.198	.251	1.255	.362	.568	.517	28.2
WHARTON BORO	418	79	1148	1976	.548	.479	.477	.139	.501	.411	29.4
OCEAN											
BARNEGAT TWP.	859	122	2258	3156	3.541	.297	.864	.613	1.567	1.329	53.1
BARNEGAT LIGHT BORO	859	14	2258	405	.149	.161	.112	.142	.141	.141	53.1
BAY HEAD BORO	730	9	2161	565	.127	.136	.221	.150	.161	.159	46.6
BEACH HAVEN BORO	859	26	2258	942	.212	.558	.267	.037	.346	.269	53.1
BEACHWOOD BORO	859	86	2258	2646	.583	.274	.759	.110	.539	.432	53.1
BERKELEY TWP.	859	259	2258	15928	5.573	.922	2.853	.738	3.116	2.521	53.1
BRICK TWP.	730	494	2161	24040	5.544	4.201	6.634	1.819	5.460	4.550	46.6
DOVER TWP.	730	537	2161	25834	8.838	11.897	7.969	10.933	9.568	9.909	46.6
EAGLESWOOD TWP.	859	28	2258	399	.	.	.	.	.	.	53.1
HARVEY CEDARS BORO	859	7	2258	297	.117	.067	.055	.039	.079	.069	53.1
ISLAND HEIGHTS BORO	730	19	2161	631	.127	.059	.179	.028	.122	.098	46.6
JACKSON TWP.	859	380	2258	8654	2.666	2.347	2.875	2.892	2.629	2.695	53.1
LACEY TWP.	859	231	2258	7290	4.862	1.689	1.682	2.223	2.744	2.614	53.1
LAKEMURST BORO	859	90	2258	905	.200	.495	.256	.749	.317	.425	53.1
LAKWOOD TWP.	730	742	2161	15893	.	.	.	.	.	.	46.6
LAVALLETTE BORO	730	25	2161	1122	.138	.444	.300	1.164	.294	.512	46.6
LITTLE EGG HARBOR TWP.	859	153	2258	4153	2.207	.146	1.017	.304	1.123	.918	53.1
LONG BEACH TWP.	859	58	2258	2487	.913	.356	.587	.268	.619	.531	53.1
MANCHESTER TWP.	859	158	2258	17100	5.572	.771	3.808	.751	3.384	2.726	53.1
MANTOLOKING BORO	730	2	2161	204	.093	.099	.151	.271	.114	.154	46.6
OCEAN TWP.	859	63	2258	1621	3.041	.210	.441	-.163	1.231	.882	53.1
OCEAN GATE BORO	859	33	2258	610	.106	.024	.140	.039	.090	.077	53.1
PINE BEACH BORO	859	8	2258	672	.127	.156	.224	.257	.169	.191	53.1
PLUMSTED TWP.	859	145	2258	1785	.	.	.	.	.	.	53.1
POINT PLEASANT BORO	730	136	2161	7488	.786	2.261	2.135	1.926	1.727	1.777	46.6
POINT PLEASANT BEACH BORO	730	78	2161	2307	.319	1.215	.724	.393	.753	.663	46.6
SEASIDE HEIGHTS BORO	730	78	2161	1206	.074	.696	.179	.511	.317	.365	46.6
SEASIDE PARK BORO	730	40	2161	852	.127	.416	.265	.481	.270	.322	46.6
SHIP BOTTOM BORO	859	35	2258	690	.151	.459	.202	.411	.271	.306	53.1
SOUTH TOMS RIVER BORO	859	81	2258	1058	.256	.148	.305	.134	.236	.211	53.1
STAFFORD TWP.	859	172	2258	5027	4.126	1.453	1.292	2.337	2.291	2.302	53.1
SURF CITY BORO	859	32	2258	866	.138	.218	.198	.158	.185	.178	53.1
TUCKERTON BORO	859	77	2258	1054	.786	.404	.258	-.060	.483	.347	53.1

PASSAIC

BLOOMINGDALE BORO	1082	108	1922	2790	1.477	.104	.559	-.156	.713	.496	29.4
CLIFTON CITY	4533	1070	4293	31372	3.976	7.596	5.845	10.285	5.806	6.926	51.6
HALEDON BORO	1082	119	1922	2760	.462	.321	.459	-.154	.414	.272	29.4
HAWTHORNE BORO	1082	192	1922	7358	1.221	1.218	1.406	.887	1.282	1.183	29.4
LITTLE FALLS TWP.	1082	90	1922	4438	.994	1.240	1.054	.849	1.096	1.034	29.4
NORTH HALEDON BORO	1082	49	1922	2655	1.243	.213	.636	.291	.697	.596	29.4
PASSAIC CITY	4533	3224	4293	19928	.	.	.	.	.	.	51.6
PATERSON CITY	7036	7023	7023	46629	.	.	.	.	.	.	63.3
POMPTON LAKES BORO	1082	68	1922	3871	1.012	.482	.883	.402	.792	.695	29.4
PROSPECT PARK BORO	1082	127	1922	1991	.160	.057	.327	-.266	.181	.069	29.4
RINGWOOD BORO	1082	117	1922	4011	.	.	.	.	.	.	29.4
TOTOWA BORO	1082	89	1922	3573	1.420	2.144	.781	2.030	1.448	1.594	29.4
WANAUKE BORO	1082	123	1922	3332	.590	.232	.675	-.030	.499	.367	29.4
WAYNE TWP.	1082	239	1922	15901	8.836	6.286	4.324	8.487	6.482	6.983	29.4
WEST MILFORD TWP.	1082	466	1922	7822	.087	.455	1.675	.910	.739	.782	29.4
WEST PATERSON BORO	1082	135	1922	4241	1.047	.564	.846	-.022	.819	.609	29.4

SALEM

ALLOWAY TWP.	2377	84	3357	971	.	.	.	.	.	.	41.8
CARNEYS POINT TWP.	2377	102	3357	3342	1.842	.292	2.298	-.293	1.477	1.035	41.8
ELMER BORO	2377	18	3357	611	.	.	.	.	.	.	41.8
ELSINBORO TWP.	2377	29	3357	555	.056	.046	.414	.122	.172	.159	41.8
LOWER ALLOWAYS CREEK TWP.	2377	53	3357	615	.	.	.	.	.	.	41.8
MANNINGTON TWP.	2377	71	3357	606	.	.	.	.	.	.	41.8
OLDMANS TWP.	2377	31	3357	671	3.028	.568	.459	.468	1.352	1.131	41.8
PENNS GROVE BORO	2377	187	3357	2216	.223	.961	1.002	-.134	.729	.513	41.8
PENNSVILLE TWP.	2377	198	3357	5719	1.990	3.817	4.033	-5.931	3.280	.977	41.8
PILESGROVE TWP.	2377	67	3357	1071	.	.	.	.	.	.	41.8
PITTSGROVE TWP.	2377	120	3357	2607	.197	.224	1.727	-.537	.716	.403	41.8
QUINTON TWP.	2377	89	3357	1103	.	.	.	.	.	.	41.8
SALEM CITY	2377	200	3357	2843	.590	2.124	1.540	-5.032	1.418	-.195	41.8
UPPER PITTSGROVE TWP.	2377	75	3357	1114	.	.	.	.	.	.	41.8
WOODSTOWN BORO	2377	45	3357	1408	.	.	.	.	.	.	41.8

SOMERSET

BEDMINSTER TWP.	655	37	834	3539	1.331	1.397	.771	.397	1.166	.974	31.2
BERNARDS TWP.	655	42	834	5418	3.341	2.018	2.290	5.033	2.550	3.170	31.2
BERNARDSVILLE BORO	655	54	834	2344	.928	.537	1.396	.217	.954	.770	31.2

BOUND BROOK BORO	655	201	834	3387	.352	1.067	1.029	-2.364	.816	.021	31.2
BRANCHBURG TWP.	222	34	1072	2741	2.219	.684	1.129	1.349	1.344	1.345	32.3
BRIDGEWATER TWP.	655	160	834	8913	6.820	3.452	4.161	-1.192	4.811	3.310	31.2
FAR HILLS BORO	655	7	834	237	.095	.177	.176	.290	.150	.185	31.2
FRANKLIN TWP.	222	344	1072	12151	4.220	4.336	4.040	10.897	4.199	5.873	32.3
GREEN BROOK TWP.	655	32	834	1394	1.011	.695	.564	1.164	.757	.858	31.2
HILLSBORO TWP.	222	103	1072	9248	3.795	.673	2.791	1.049	2.420	2.077	32.3
MANVILLE BORO	222	183	1072	3787	.549	.471	1.113	-2.283	.711	-.037	32.3
MILLSTONE BORO	222	2	1072	162	.053	.014	.073	-.438	.047	-.075	32.3
MONTGOMERY TWP.	222	47	1072	2516	.014	1.430	1.102	.770	.849	.829	32.3
NORTH PLAINFIELD BORO	655	208	834	7154	.593	.947	2.190	.802	1.244	1.133	31.2
PEAPACK AND GLADSTONE BORO	655	25	834	764	.439	.257	.326	.429	.341	.363	31.2
RARITAN BORO	222	122	1072	2210	.439	1.817	.619	2.009	.958	1.221	32.3
ROCKY HILL BORO	222	6	1072	256	.	.	.	.	.	.	32.3
SOMERVILLE BORO	222	154	1072	4467	.505	3.969	1.391	7.433	1.955	3.325	32.3
SOUTH BOUND BROOK BORO	222	77	1072	1551	.154	.094	.406	-.319	.218	.084	32.3
WARREN TWP.	655	52	834	3172	4.306	1.093	1.664	1.815	2.355	2.220	31.2
WATCHUNG BORO	655	17	834	1753	1.318	1.248	1.063	-.362	1.210	.817	31.2

SUSSEX

ANDOVER BORO	755	19	2315	301	.	.	.	.	.	.	33.8
ANDOVER TWP.	755	53	2315	1644	1.222	.139	.358	.272	.573	.498	33.8
BRANCHVILLE BORO	755	12	2315	372	.	.	.	.	.	.	33.8
BYRAM TWP.	755	111	2315	2603	.	.	.	.	.	.	33.8
FRANKFORD TWP.	755	122	2315	1712	.	.	.	.	.	.	33.8
FRANKLIN BORO	755	87	2315	1632	.	.	.	.	.	.	33.8
FREDON TWP.	755	28	2315	830	.444	.027	.194	-.021	.221	.161	33.8
GREEN TWP.	755	46	2315	878	.	.	.	.	.	.	33.8
HAMBURG BORO	755	42	2315	633	.	.	.	.	.	.	33.8
HAMPTON TWP.	755	65	2315	1478	.829	.022	.291	-.013	.381	.282	33.8
HARDYSTON TWP.	755	118	2315	1795	.	.	.	.	.	.	33.8
HOPATCONG BORO	755	233	2315	5233	.	.	.	.	.	.	33.8
LAFAYETTE TWP.	755	50	2315	646	.	.	.	.	.	.	33.8
MONTAGUE TWP.	755	87	2315	919	.	.	.	.	.	.	33.8
NEWTON TOWN	755	149	2315	3100	.624	.918	.514	.563	.685	.655	33.8
OGDENSBURG BORO	755	47	2315	855	.	.	.	.	.	.	33.8
SANDYSTON TWP.	755	84	2315	633	.	.	.	.	.	.	33.8
SPARTA TWP.	755	132	2315	5245	.	.	.	.	.	.	33.8
STANHOPE BORO	755	44	2315	1349	.	.	.	.	.	.	33.8
STILLWATER TWP.	755	100	2315	1507	.	.	.	.	.	.	33.8
SUSSEX BORO	755	86	2315	922	.	.	.	.	.	.	33.8
VERNON TWP.	755	363	2315	6688	.	.	.	.	.	.	33.8

	WALPACK TWP.	755	5	2315	57	.	.	.	.	.	.	33.8
	WANTAGE TWP.	755	231	2315	2763	.	.	.	.	.	.	33.8
UNION												
	BERKELEY HEIGHTS TWP.	1162	24	1549	3932	1.826	.907	1.585	1.172	1.439	1.372	33.1
	CLARK TWP.	795	45	925	5740	1.272	1.659	1.551	-.101	1.494	1.095	28.6
	CRANFORD TWP.	795	121	925	8464	1.376	2.683	2.382	3.160	2.147	2.400	28.6
	ELIZABETH CITY	3019	4463	4463	40335	.	.	.	.	.	.	59.4
	FANWOOD BORO	1162	20	1549	2561	.362	.302	.773	.345	.479	.445	33.1
	GARWOOD BORO	795	53	925	1785	.197	.700	.369	.514	.422	.445	28.6
	HILLSIDE TWP.	667	448	1947	7333	.	.	.	.	.	.	38.2
	KENILWORTH BORO	667	56	1947	2826	.562	1.885	.616	.292	1.021	.839	38.2
	LINDEN CITY	667	659	1947	15086	3.075	5.999	2.898	-1.985	3.991	2.497	38.2
	MOUNTAINSIDE BORO	795	9	925	2461	1.152	1.312	.979	.487	1.148	.982	28.6
	NEW PROVIDENCE BORO	1162	44	1549	4342	.983	2.551	1.470	2.779	1.668	1.946	33.1
	PLAINFIELD CITY	1162	1201	1549	15951	.	.	.	.	.	.	33.1
	RAHWAY CITY	795	439	925	10122	1.123	2.781	2.099	.865	2.001	1.717	28.6
	ROSELLE BORO	667	336	1947	7863	.	.	.	.	.	.	38.2
	ROSELLE PARK BORO	667	141	1947	5141	.365	.525	1.082	.156	.657	.532	38.2
	SCOTCH PLAINS TWP.	1162	101	1549	7581	2.584	.782	2.387	.921	1.917	1.668	33.1
	SPRINGFIELD TWP.	795	63	925	6307	1.460	2.378	1.573	1.919	1.804	1.833	28.6
	SUMMIT CITY	1162	159	1549	8445	1.685	2.760	3.302	2.440	2.582	2.547	33.1
	UNION TWP.	667	307	1947	18707	2.528	6.817	4.360	.113	4.568	3.454	38.2
	WESTFIELD TOWN	795	156	925	10714	1.826	1.525	3.845	.989	2.398	2.046	28.6
	WINFIELD TWP.	795	38	925	712	.048	.008	.123	.022	.060	.050	28.6
WARREN												
	ALLAMUCHY TWP.	2548	29	3279	1393	.	.	.	.	.	.	43.8
	ALPHA BORO	2548	35	3279	993	.374	.147	.250	-.015	.257	.189	43.8
	BELVIDERE TOWN	2548	32	3279	1007	.	.	.	.	.	.	43.8
	BLAIRSTOWN TWP.	2548	135	3279	1782	.	.	.	.	.	.	43.8
	FRANKLIN TWP.	2548	52	3279	813	.038	.091	.230	-.035	.120	.081	43.8
	FRELINGHUYSEN TWP.	2548	42	3279	.574	.	.	.	.	.	.	43.8
	GREENWICH TWP.	2548	36	3279	602	1.684	.065	.167	.074	.639	.498	43.8
	HACKETTSTOWN TOWN	2548	134	3279	3273	.659	1.890	.824	1.427	1.124	1.200	43.8
	HARDWICK TWP.	2548	51	3279	351	.	.	.	.	.	.	43.8
	HARMONY TWP.	2548	77	3279	939	.487	.069	.254	.215	.270	.256	43.8
	HOPE TWP.	2548	41	3279	588	.	.	.	.	.	.	43.8
	INDEPENDENCE TWP.	2548	59	3279	1135	.088	.062	.294	.158	.148	.151	43.8
	KNOWLTON TWP.	2548	67	3279	793	.140	.109	.194	.022	.148	.116	43.8

LIBERTY TWP.	2548	52	3279	694	.	.	.	.	.	.	43.8
LOPATCONG TWP.	2548	54	3279	1898	1.076	.069	.504	-.433	.550	.304	43.8
MANSFIELD TWP.	2548	113	3279	2444	.135	.133	.566	-.020	.278	.204	43.8
OXFORD TWP.	2548	53	3279	604	.	.	.	.	.	.	43.8
PAHAQUARRY TWP.	2548	0	3279	13	.	.	.	.	.	.	43.8
PHILLIPSBURG TOWN	2548	275	3279	6387	.	.	.	.	.	.	43.8
POHATCONG TWP.	2548	78	3279	1364	1.279	.122	.335	.338	.579	.519	43.8
WASHINGTON BORO	2548	117	3279	2675	.417	.392	.586	-.304	.465	.273	43.8
WASHINGTON TWP.	2548	90	3279	1621	.887	.417	.457	.308	.587	.518	43.8
WHITE TWP.	2548	69	3279	1186	.	.	.	.	.	.	43.8

EXHIBIT 2 - BASE DATA BY HOUSING REGION

<u>REGION</u>	<u>COLUMN A</u> 1987 REGIONAL AVERAGE PERCENT DETERIORATION	<u>COLUMN B</u> REGIONAL POOL OF EXCESS DEFICIENT HOUSING UNITS	<u>COLUMN C</u> 1993 PROSPECTIVE NEED	<u>COLUMN D</u> 1987-1993 FILTERING ESTIMATES	<u>COLUMN E</u> 1980 MULTIFAMILY UNIT TOTALS	<u>COLUMN F</u> 1987-1993 RESIDENTIAL CONVERSION ESTIMATES	<u>COLUMN G</u> 1980 2-4 FAMILY UNIT TOTALS	<u>COLUMN H</u> 1987-1993 SPONTANEOUS REHABILITATION ESTIMATES	<u>COLUMN I</u> 1983/1984 AGGREGATE PER CAPITA INCOME (\$)
1	.075	17,676	5,509	12,202	410,972	5,138	224,294	1,884	21,112,820,558
2	.047	8,829	9,759	12,678	334,839	3,257	165,631	1,194	22,029,857,240
3	.025	1,631	13,661	7,222	104,428	1,048	50,697	384	12,235,480,836
4	.015	750	23,752	6,706	73,799	662	29,269	243	9,830,614,791
5	.026	4,060	18,179	9,587	121,352	1,478	42,692	542	14,201,442,966
6	.042	1,465	9,561	3,494	57,287	1,174	27,873	431	4,592,475,839

APPENDIX C
GROWTH AREA ALLOCATION INDEX TOTALS
UPON WHICH ALLOCATION PERCENTAGES ARE BASED¹

REGION	1984 TOTAL COVERED EMPLOYMENT	1977-1984 REGRESSED ANNUAL COVERED EMPLOYMENT CHANGE
1. Northeast	530,670	9,248
2. Northwest	472,159	13,295
3. West Central	347,443	10,622
4. East Central	18 ⁴	6,618
5. Southwest	36 ⁴ ,465	10,249
6. South-Southwest	152,928	6,353
Total	2,052,979	56,385

REGION	GROWTH AREA ² IN ACRES	1982-1984 AGGREGATE PER CAPITA INCOME
1. Northeast	180,278	\$15,200,259,300
2. Northwest	227,868	\$14,100,784,128
3. West Central	291,294	\$10,539,986,795
4. East Central	301,384	\$ 8,549,553,470
5. Southwest	409,260	\$12,406,160,844
6. South-Southwest	258,234	\$ 3,536,207,381
Total	1,668,338	\$64,352,951,818

Notes

1. For all communities in the growth area with the exception of selected Urban Aid Cities. See Technical Appendix, *infra*.
2. Includes applicable growth area designations of the State Development Guide Plan, Florida's Commission, and the Coastal Zone. See Technical Appendix, *infra*.

Source: Rutgers University, Center for Urban Policy Research, 1986

APPENDIX D

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Atlantic	Moderate Income (80%) \$16,950 Low Income (50%) 9,300	Moderate Income (80%) \$19,900 Low Income (50%) 11,900	Moderate Income (80%) \$21,200 Low Income (50%) 13,200	Moderate Income (80%) \$22,500 Low Income (50%) 14,500	Moderate Income (80%) \$23,800 Low Income (50%) 15,800	Moderate Income (80%) \$25,100 Low Income (50%) 17,100	Moderate Income (80%) \$26,400 Low Income (50%) 18,400	Moderate Income (80%) \$27,700 Low Income (50%) 19,700
Bergen	Moderate Income (80%) 20,380 Low Income (50%) 12,760	Moderate Income (80%) 23,300 Low Income (50%) 14,560	Moderate Income (80%) 26,210 Low Income (50%) 16,380	Moderate Income (80%) 29,120 Low Income (50%) 18,200	Moderate Income (80%) 32,030 Low Income (50%) 19,960	Moderate Income (80%) 34,940 Low Income (50%) 21,720	Moderate Income (80%) 37,850 Low Income (50%) 23,480	Moderate Income (80%) 40,760 Low Income (50%) 25,240
Burlington	Moderate Income (80%) 17,100 Low Income (50%) 10,700	Moderate Income (80%) 19,500 Low Income (50%) 12,200	Moderate Income (80%) 21,900 Low Income (50%) 13,700	Moderate Income (80%) 24,300 Low Income (50%) 15,200	Moderate Income (80%) 26,700 Low Income (50%) 16,700	Moderate Income (80%) 29,100 Low Income (50%) 18,200	Moderate Income (80%) 31,500 Low Income (50%) 19,700	Moderate Income (80%) 33,900 Low Income (50%) 21,200
Canden	Moderate Income (80%) 17,100 Low Income (50%) 10,700	Moderate Income (80%) 19,500 Low Income (50%) 12,200	Moderate Income (80%) 21,900 Low Income (50%) 13,700	Moderate Income (80%) 24,300 Low Income (50%) 15,200	Moderate Income (80%) 26,700 Low Income (50%) 16,700	Moderate Income (80%) 29,100 Low Income (50%) 18,200	Moderate Income (80%) 31,500 Low Income (50%) 19,700	Moderate Income (80%) 33,900 Low Income (50%) 21,200
Cape May	Moderate Income (80%) 16,950 Low Income (50%) 9,300	Moderate Income (80%) 19,100 Low Income (50%) 11,900	Moderate Income (80%) 21,200 Low Income (50%) 13,200	Moderate Income (80%) 23,300 Low Income (50%) 14,500	Moderate Income (80%) 25,400 Low Income (50%) 15,800	Moderate Income (80%) 27,500 Low Income (50%) 17,100	Moderate Income (80%) 29,600 Low Income (50%) 18,400	Moderate Income (80%) 31,700 Low Income (50%) 19,700
Cumberland	Moderate Income (80%) 16,300 Low Income (50%) 8,950	Moderate Income (80%) 18,200 Low Income (50%) 10,200	Moderate Income (80%) 20,100 Low Income (50%) 11,450	Moderate Income (80%) 22,000 Low Income (50%) 12,700	Moderate Income (80%) 23,900 Low Income (50%) 13,950	Moderate Income (80%) 25,800 Low Income (50%) 15,200	Moderate Income (80%) 27,700 Low Income (50%) 16,450	Moderate Income (80%) 29,600 Low Income (50%) 17,700
Essex	Moderate Income (80%) 19,770 Low Income (50%) 12,355	Moderate Income (80%) 22,990 Low Income (50%) 14,120	Moderate Income (80%) 26,210 Low Income (50%) 15,885	Moderate Income (80%) 29,430 Low Income (50%) 17,650	Moderate Income (80%) 32,650 Low Income (50%) 19,415	Moderate Income (80%) 35,870 Low Income (50%) 21,180	Moderate Income (80%) 39,090 Low Income (50%) 22,945	Moderate Income (80%) 42,310 Low Income (50%) 24,710
Glocester	Moderate Income (80%) 17,100 Low Income (50%) 10,700	Moderate Income (80%) 19,500 Low Income (50%) 12,200	Moderate Income (80%) 21,900 Low Income (50%) 13,700	Moderate Income (80%) 24,300 Low Income (50%) 15,200	Moderate Income (80%) 26,700 Low Income (50%) 16,700	Moderate Income (80%) 29,100 Low Income (50%) 18,200	Moderate Income (80%) 31,500 Low Income (50%) 19,700	Moderate Income (80%) 33,900 Low Income (50%) 21,200
Hudson	Moderate Income (80%) 16,950 Low Income (50%) 8,950	Moderate Income (80%) 18,100 Low Income (50%) 10,050	Moderate Income (80%) 19,300 Low Income (50%) 11,300	Moderate Income (80%) 20,500 Low Income (50%) 12,550	Moderate Income (80%) 21,700 Low Income (50%) 13,800	Moderate Income (80%) 22,900 Low Income (50%) 15,050	Moderate Income (80%) 24,100 Low Income (50%) 16,300	Moderate Income (80%) 25,300 Low Income (50%) 17,550
Hunterdon	Moderate Income (80%) 21,620 Low Income (50%) 13,510	Moderate Income (80%) 24,700 Low Income (50%) 15,440	Moderate Income (80%) 27,780 Low Income (50%) 17,370	Moderate Income (80%) 30,860 Low Income (50%) 19,300	Moderate Income (80%) 33,940 Low Income (50%) 21,230	Moderate Income (80%) 37,020 Low Income (50%) 23,160	Moderate Income (80%) 40,100 Low Income (50%) 25,090	Moderate Income (80%) 43,180 Low Income (50%) 27,020
Mercer	Moderate Income (80%) 18,950 Low Income (50%) 11,850	Moderate Income (80%) 21,700 Low Income (50%) 13,550	Moderate Income (80%) 24,450 Low Income (50%) 15,250	Moderate Income (80%) 27,200 Low Income (50%) 16,950	Moderate Income (80%) 29,950 Low Income (50%) 18,650	Moderate Income (80%) 32,700 Low Income (50%) 20,350	Moderate Income (80%) 35,450 Low Income (50%) 22,050	Moderate Income (80%) 38,200 Low Income (50%) 23,750
Middlesex	Moderate Income (80%) 21,620 Low Income (50%) 13,510	Moderate Income (80%) 24,700 Low Income (50%) 15,440	Moderate Income (80%) 27,780 Low Income (50%) 17,370	Moderate Income (80%) 30,860 Low Income (50%) 19,300	Moderate Income (80%) 33,940 Low Income (50%) 21,230	Moderate Income (80%) 37,020 Low Income (50%) 23,160	Moderate Income (80%) 40,100 Low Income (50%) 25,090	Moderate Income (80%) 43,180 Low Income (50%) 27,020
Monmouth	Moderate Income (80%) 17,900 Low Income (50%) 11,200	Moderate Income (80%) 20,500 Low Income (50%) 12,800	Moderate Income (80%) 23,100 Low Income (50%) 14,400	Moderate Income (80%) 25,700 Low Income (50%) 16,000	Moderate Income (80%) 28,300 Low Income (50%) 17,600	Moderate Income (80%) 30,900 Low Income (50%) 19,200	Moderate Income (80%) 33,500 Low Income (50%) 20,800	Moderate Income (80%) 36,100 Low Income (50%) 22,400
Morris	Moderate Income (80%) 19,770 Low Income (50%) 12,355	Moderate Income (80%) 22,990 Low Income (50%) 14,120	Moderate Income (80%) 26,210 Low Income (50%) 15,885	Moderate Income (80%) 29,430 Low Income (50%) 17,650	Moderate Income (80%) 32,650 Low Income (50%) 19,415	Moderate Income (80%) 35,870 Low Income (50%) 21,180	Moderate Income (80%) 39,090 Low Income (50%) 22,945	Moderate Income (80%) 42,310 Low Income (50%) 24,710

SECTION 8 INCOME LIMITS BY COUNTY

APPENDIX D

City	Moderate Income (80%)	Low Income (50%)	Moderate Income (80%)	Low Income (50%)	Moderate Income (80%)	Low Income (50%)	Moderate Income (80%)	Low Income (50%)	Moderate Income (80%)	Low Income (50%)	Moderate Income (80%)	Low Income (50%)
Ocean	29,500	17,900	23,050	14,400	25,600	15,700	22,600	14,150	25,100	15,700	22,600	14,150
Pasadena	23,300	20,300	26,210	16,380	23,100	18,200	22,590	14,560	23,300	16,380	22,590	14,560
Palmdale	20,300	11,200	23,210	14,560	20,100	12,500	22,600	14,150	20,100	12,500	22,600	14,150
San Jose	24,600	17,900	28,510	17,370	25,400	16,150	22,600	14,150	25,400	16,150	22,600	14,150
San Francisco	30,600	21,620	34,700	24,700	30,880	21,790	27,900	19,460	30,880	21,790	27,900	19,460
San Diego	29,600	17,590	32,610	19,370	29,500	15,700	26,600	14,150	29,500	15,700	26,600	14,150
San Gabriel	33,540	19,770	37,450	23,420	34,340	20,100	31,240	17,985	34,340	20,100	31,240	17,985
San Jose	33,540	19,770	37,450	23,420	34,340	20,100	31,240	17,985	34,340	20,100	31,240	17,985
San Jose	33,540	19,770	37,450	23,420	34,340	20,100	31,240	17,985	34,340	20,100	31,240	17,985
Union	33,540	19,770	37,450	23,420	34,340	20,100	31,240	17,985	34,340	20,100	31,240	17,985
Warren	29,300	16,600	32,210	18,750	29,100	16,250	26,600	14,150	29,100	16,250	26,600	14,150

Source: 1) US Dept. of Housing and Urban Development estimates as of October 21, 1985.
 2) For areas of unusually high income, a maximum income limit has been established at the national median family income level of \$27,000 applicable to the four person income limit for lower income (moderate) families. These figures above do not reflect this limit or cap.

APPENDIX E

AVERAGE COST OF REPLACING MAJOR SYSTEMS
FOR HOUSING REHABILITATION ¹

	Low Rise	High Rise
Plumbing	\$ 3,000	\$ 3,300
HVAC ²	2,500	5,500
Electric	3,000	6,000
Dry Wall, Carpentry, Insulation	5,000	10,400
Painting	750	850
Roofing, Flashing	1,400	1,300
Windows	550	950
Kitchen Cabinets	850	1,100
Flooring	1,700	1,400
Ceramic Tile	450	450
TOTAL AVERAGE	\$19,200	\$31,250
AVERAGE OF TOTAL AVERAGE	\$ 9,600	\$15,625

¹ These are average figures that are not adjusted by municipality.

² Heating, ventilation, air conditioning.

Source: New Jersey Housing and Mortgage Finance Agency, April, 1986.

APPENDIX F

COUNTY REVIEW CHECKLIST

The Act allows a municipality to transfer up to 50 percent of its low and moderate income housing obligation to a willing receiving municipality. The terms of this transfer are determined by the individual negotiations between willing sending and receiving municipalities within the same housing region as adopted by the Council.

Recognizing the need for sound regional comprehensive planning, the Act permits the county of the receiving municipality to review the proposed RCA and submit its comments and recommendations to the Council. The Act indicates that this review shall be performed by the county planning board or other designated agency and that in its review, the county "shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the State Development Redevelopment Plan".

The Act permits the Council to establish time limits for county review and since the Council views expedient review of RCAs as crucial, it shall impose a 45 day limit for the county to complete its review. The Council may provide a 15 day extension if the county requests such an extension for legitimate reasons. If the county is unable to complete its review within the allotted time, or if there is no county planning board or designated county agency, the Council shall perform the required review.

To facilitate county review, the Council has developed a four section checklist. This checklist is to be completed as part of the county review process.

COUNTY REVIEW CHECKLIST

SECTION I: ACCESS TO EMPLOYMENT OPPORTUNITIES

A. Does the proposed agreement provide realistic housing opportunities within convenient access to employment opportunities?

Housing Site(s) Proposed:

	Location	Site #		Yes	No
1. Receiving Munic.	_____	_____	A.	_____	_____
	_____	_____	B.	_____	_____
	_____	_____	C.	_____	_____
	Location	Site #			
2. Sending Munic.	_____	_____	A.	_____	_____
	_____	_____	B.	_____	_____
	_____	_____	C.	_____	_____

**BRIEFLY EXPLAIN ACCESS FOR EACH SITE ON SEPARATE SHEET
INCLUDE SITE #**

B. Is the proposed housing served by available transit?

**Housing Site(s) Proposed:
If yes, check type(s) of service**

1. Receiving Munic. Location	#		Inter-Municipal				No
			Yes	Munic	County	Inter-Co	
_____	_____	A.	_____	_____	_____	_____	_____
_____	_____	B.	_____	_____	_____	_____	_____
_____	_____	C.	_____	_____	_____	_____	_____

2. Sending Munic.
Location

#

_____	_____	A.	_____	_____	_____	_____
_____	_____	B.	_____	_____	_____	_____
_____	_____	C.	_____	_____	_____	_____

IF TRANSIT POSSIBLE, BRIEFLY EXPLAIN TRANSIT FOR EACH SITE ON SEPARATE SHEET

SECTION II: CURRENTLY ADOPTED AND/OR OFFICIAL LAND USE ELEMENT CONSISTENCY REVIEW (ATTACH RELEVANT PAGES OF DOCUMENTS CITED BELOW)

A.1. Receiving Munic. (a) Master Plan Of: _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Check One		Conflicts In Whole
	Complies In Whole	Part (Explain)	
_____	_____	_____	_____

(b) Zoning Ordinance Of: _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Check One		Conflicts In Whole
	Complies In Whole	Part (Explain)	
_____	_____	_____	_____

2. Sending Munic. (a) Master Plan Of: _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Check One		Conflicts In Whole
	Complies In Whole	Part (Explain)	
_____	_____	_____	_____

(b) Zoning Ordinance

	Complies In Whole	Part (Explain)	Conflicts In Whole
Of: _____ ; Adopted: _____			
Brief Explanation (attach additional sheets as necessary)			
<hr/>			
<hr/>			

C. Are there any future plans to serve the proposed housing with transit?

	Yes	No
1. Receiving Munic.	A. _____	_____
	B. _____	_____
	C. _____	_____
2. Sending Munic.	A. _____	_____
	B. _____	_____
	C. _____	_____

IF TRANSIT POSSIBLE, BRIEFLY EXPLAIN TRANSIT FOR EACH SITE ON SEPARATE SHEET

	Complies In Whole	Check One Part (Explain)	Conflicts In Whole
B.1. Receiving County Land Use Element Of:			
_____ County:	_____	_____	_____
Adopted: _____			
Brief Explanation (attach additional sheets as necessary)			

	Complies In Whole	Part (Explain)	Conflict In Whole
C.1. Other Regional Plan Land Use Element(s)* Affecting:			
(a) Receiving Munic. _____ ; Adopted: _____	_____	_____	_____
Brief Explanation (attach additional sheets as necessary)			

	Complies In Whole	Part (Explain)	Conflicts In Whole
D.1. State Development Redevelopment Plan (S.D.R.P.)**			
(a) Receiving Munic. _____	_____	_____	_____
(b) Sending Munic. _____	_____	_____	_____
Brief Explanation (attach additional sheets as necessary)			

*For example, is site(s) consistent with Hackensack Meadowlands Development Commission's Adopted Land Use Element
 **Use official State Development Guide Plan until S.D.R.P. is adopted.

SECTION III: CURRENTLY ADOPTED TRANSPORTATION PLAN AND/OR PROGRAM ELEMENT CONSISTENCY REVIEW

1. Are there transportation or transit plans at any level of government which would positively or negatively affect the proposed housing and/or the proposed housing sites?

1. Within Sending Munic.

2. Within Receiving Munic.

CERTIFICATION: There are currently no transportation plans to build roadway that may invalidate sites.

SECTION IV: CURRENTLY ADOPTED WATER QUALITY MANAGEMENT PLAN (208) (ATTACH RELEVANT PAGES OF DOCUMENT)

A. Is the proposed housing consistent with the 208 plan?

Housing Site(s) Proposed:

	Location	Site #	Check One	
			Yes	No
1. Within	_____	A.	_____	_____
Receiving	_____	B.	_____	_____
Munic.	_____	C.	_____	_____

ATTACH ADDITIONAL SHEETS IF NECESSARY TO COMPLETE ABOVE QUESTION

This review is certified by the undersigned as representing a true and accurate statement of fact. Based on this review, it is found that the following sites are:

1. Within Receiving Munic.

Housing Site(s) Proposed Location Site #

In Keeping With Sound Regional Comprehensive Planning

Not in Keeping With Sound Regional Comprehensive Planning

_____	A. _____	_____
_____	B. _____	_____
_____	C. _____	_____

2. Within Sending Munic.

Location Site #

_____	A. _____	_____
_____	B. _____	_____
_____	C. _____	_____

CERTIFIED BY: _____

DATED: _____

TYPE NAME: _____

TITLE: _____

REPRESENTING _____

PROFESSIONAL LICENSE #: (as applicable) _____